


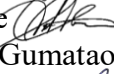
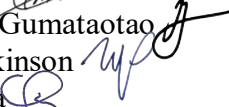





I Mina'trentai Ocho Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
317-38 (COR)	Frank F. Blas, Jr. Telo T. Taitague Eulogio Shawn Gumataotao William A. Parkinson V. Anthony Ada Shelly V. Calvo Tina Rose Muña-Barnes Jesse A. Lujan	AN ACT TO REPEAL AND REENACT CHAPTERS 1, 4, 16, 17, 19, 22, 25, 25A, 31, 34, 37, 40, 43, 46, 47, 48, 52, 55, 70, 71, 90, AND 91 OF TITLE 9, GUAM CODE ANNOTATED AND TO AMEND §§ 60109, 60110, AND 60110.1 OF CHAPTER 60, TITLE 10, GUAM CODE ANNOTATED AS RECOMMENDED BY THE GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION RELATIVE TO THE COMMISSION'S MANDATE TO RECOMMEND ENACTMENTS, AMENDMENTS AND REPEALS TO GUAM'S CRIMINAL LAWS AND PROCEDURES TO LIHESLATURAN GUÅHAN.	5/12/26 10:57 a.m.						

I MINA'TRENTAI OCHO NA LIHESLATURAN GUÅHAN
2026 (SECOND) Regular Session

Bill No. 317-38 (COR)

Introduced by:

Frank F. Blas, Jr. 
Telo T. Taitague 
Eulogio Shawn Gumataotao 
William A. Parkinson 
V. Anthony Ada 
Shelly V. Calvo 
Tina Rose Muña-Barnes 
Jesse A. Lujan 

AN ACT TO REPEAL AND REENACT CHAPTERS 1, 4, 16, 17, 19, 22, 25, 25A, 31, 34, 37, 40, 43, 46, 47, 48, 52, 55, 70, 71, 90, AND 91 OF TITLE 9, GUAM CODE ANNOTATED AND TO AMEND §§ 60109, 60110, AND 60110.1 OF CHAPTER 60, TITLE 10, GUAM CODE ANNOTATED AS RECOMMENDED BY THE GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION RELATIVE TO THE COMMISSION'S MANDATE TO RECOMMEND ENACTMENTS, AMENDMENTS AND REPEALS TO GUAM'S CRIMINAL LAWS AND PROCEDURES TO I LIHESLATURAN GUÅHAN.

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

2 **Section 1. Legislative Findings and Intent.** Public Law 36-119
3 established the Guam Criminal Law and Procedure Review Commission ("CLRC")
4 to conduct the first comprehensive and systematic review of the Guam Criminal
5 Procedure Code codified in Title 8 of the Guam Code Annotated and the Guam
6 Criminal and Correctional Code codified in Title 9 of the Guam Code Annotated,

1 which were adopted in 1976, and to recommend to *I Liheslaturan Guåhan* such
2 revisions, amendments, and repeals as may be necessary to update and modernize
3 these codes, with priority given to the review of Title 9 of the Guam Code Annotated.

4 In accordance with this mandate, the CLRC submitted to *I Liheslaturan*
5 *Guåhan*, on June 13, 2025, an Interim Report setting forth its findings and
6 recommendations for amendments to selected chapters of Title 9 of the Guam Code
7 Annotated. The Interim Report identified changes to sections in blackline (markup)
8 format, with CLRC comments explaining the changes or indicating that no changes
9 were recommended. The remaining chapters of Title 9, and other criminal statutes,
10 are to be addressed in subsequent reports of the CLRC.

11 On February 6, 2026, the CLRC submitted a Notice of Interim Report Errata
12 and Revisions to *I Liheslaturan Guåhan* correcting clerical errors and withdrawing
13 recommendations for those provisions in Title 9 that had been amended by
14 legislation enacted after the CLRC Interim Report was transmitted to *I Liheslaturan*
15 *Guåhan* on June 13, 2025.

16 Accordingly, it is the intent of *I Liheslaturan Guåhan*, through this Act, to
17 adopt and implement the recommendations of the CLRC for the Title 9 Chapters set
18 forth herein, consistent with the purposes of Public Law 36-119. The remaining Title
19 9 Chapters will be subject to legislative review and approval upon their completion
20 by the CLRC.

21 **Section 2. Guam Compiler of Laws to Codify.** The Guam Compiler of
22 Laws shall codify the chapters as repealed and reenacted in this Act and may include
23 CLRC explanatory comments as appropriate.

24 **Section 3. No Retroactive Effect.** The provisions of this Act shall not apply
25 to offenses committed prior to its effective date. For offenses committed prior to this
26 Act's effective date, the laws in effect on the date of the commission of such offenses
27 shall apply, with such laws being specifically revived and continued in effect solely

1 for that purpose, as if this Act were not in force. An offense was committed after the
2 effective date of this Act if any of the elements of the offense occurred subsequent
3 thereto.

4 **Section 4. Effective Date.** This Act takes effect ninety (90) days after
5 enactment.

6 **Section 5. Chapter 1, Title 9, Guam Code Annotated, is hereby *repealed***
7 ***and reenacted in its entirety as follows:***

8 **CHAPTER 1**

9 **PRELIMINARY PROVISIONS: DEFINITIONS**

10 **ARTICLE 1**

11 **PRELIMINARY PROVISIONS; CONSTRUCTION**

12 **§ 1.10. Short Title.**

13 This ~~Code~~ Title 9 of the Guam Code Annotated shall be known as the Guam
14 Criminal and Correctional Code.

15 ~~§ 1.12. Severability.~~

16 ~~If any provisions of this Code or the application thereof to any person or~~
17 ~~circumstances is held invalid, such invalidity shall not affect any other provision or~~
18 ~~application of this Code which can be given effect without the invalid provision or~~
19 ~~application, and to this end the provisions of this Code are severable.~~

20 **§ 1.12. Rules of Construction.**

21 Unless the provision or context otherwise requires, these preliminary provisions
22 and rules of construction shall govern the construction of this Code.

23 (a) Chapter, article and section headings do not in any manner affect the
24 scope, meaning or intent of the provisions of this Code.

25 (b) Whenever any reference is made to any portion of this Code or of any
26 other statute, such reference shall apply to all amendments and additions
27 heretofore or hereafter made.

1 (c) The present tense includes the past and future tenses; and the future, the
2 present.

3 (d) The masculine gender includes the feminine and neuter.

4 (e) The singular number includes the plural; and the plural, the singular.

5 (f) Shall is mandatory and may is permissive.

6 (g) If any provisions of this Code or the application thereof to any person or
7 circumstances is held invalid, such invalidity shall not affect any other provision
8 or application of this Code which can be given effect without the invalid
9 provision or application, and to this end the provisions of this Code are severable.

10 **§ 1.14. Purpose for Defining Offenses Purposes, Principles of Construction.**

11 (a) The general purposes of the provisions governing the definition of offense
12 are:

13 (1) to forbid, prevent, and condemn conduct that unjustifiably and
14 inexcusably inflicts or threatens substantial harm to individual or public
15 interests;

16 (2) to insure the public safety by preventing the commission of offenses
17 through the deterrent influence of the sentence authorized, the rehabilitation of
18 those convicted, and their confinement when required in the interest of public
19 protection;

20 (3) to subject to public control persons whose conduct indicates that they are
21 disposed to commit offenses;

22 (4) to give fair warning of the nature of the conduct proscribed and of the
23 sentences authorized upon conviction;

24 (5) to differentiate on reasonable grounds between serious and minor
25 offenses; and

26 (6) to define adequately the act and mental state which constitute each
27 offense, and limit the condemnation of conduct as criminal when it is without

1 fault.

2 (b) The general purposes of the provisions governing the sentencing of offenders
3 are:

4 (1) to prevent and condemn the commission of offenses;

5 (2) to promote the correction and rehabilitation of offenders;

6 (3) to assure the public safety by preventing the commission of offenses
7 through the deterrent influence of sentences imposed and the confinement of
8 offenders when required in the interest of public protections;

9 (4) to safeguard offenders against excessive, disproportionate, or arbitrary
10 punishment;

11 (5) to give fair warning of the nature of the sentences that may be imposed
12 on conviction of an offense;

13 (6) to differentiate among offenders with a view to a just individualization
14 in their treatment; ~~and~~

15 (7) to advance the use of generally accepted scientific methods and
16 knowledge in sentencing offenders.;

17 (8) to promote restitution to victims;

18 (9) to provide the defendant with needed educational or vocational training,
19 medical care, or other correctional treatment in the most effective manner; and

20 (10) to impose sentences no more severe than necessary to achieve the
21 societal purposes for which they are authorized.

22 (c) The provisions of this Code shall be construed according to the fair import
23 of their terms, but when the language is susceptible of differing constructions it shall
24 be interpreted to further the general purposes stated in this Section and the special
25 purposes of the particular provision involved. The discretionary powers conferred
26 by this Code shall be exercised in accordance with the criteria stated in the Code
27 and, insofar as such criteria are not decisive, to further the general purposes stated

1 in this Section.

2 **§ 1.16. Territorial Applicability.**

3 (a) Except as otherwise provided in this Section, a person may be convicted under
4 the law of ~~this Territory~~ Guam of an offense committed by his own conduct or the
5 conduct of another for which he is legally accountable if;

6 (1) he conduct which is an element of the offense or the result which is such
7 an element occurs within ~~this Territory~~ Guam;

8 (2) conduct occurring outside the Territory is sufficient under the law of ~~this~~
9 ~~Territory~~ Guam to constitute an attempt to commit an offense within ~~the~~
10 ~~Territory~~ Guam;

11 (3) conduct occurring outside ~~the Territory~~ Guam is sufficient under the law
12 of ~~this Territory~~ Guam to constitute a conspiracy to commit or offense within
13 ~~the Territory~~ Guam and an overt act in furtherance of such conspiracy occurs
14 within ~~the Territory~~ Guam;

15 (4) conduct occurring within ~~the Territory~~ Guam establishes complicity in
16 the commission of, or an attempt, solicitation, or conspiracy to commit, an
17 offense in another jurisdiction which is also an offense under the law of ~~this~~
18 ~~Territory~~ Guam.

19 (5) the offense consists of the omission to perform a legal duty imposed by
20 the law of ~~this Territory~~ Guam with respect to domicile, residence, or a
21 relationship to a person, thing, or transaction in ~~the Territory~~ Guam; or

22 (6) the offense is based on a statute of ~~this Territory~~ Guam which expressly
23 prohibits conduct outside ~~the Territory~~ Guam when the conduct bears a
24 reasonable relation to a legitimate interest of ~~this Territory~~ Guam and the person
25 knows or should know that his conduct is likely to affect that interest.

26 (b) ~~Paragraph (1) of Subsection (a)~~(1) does not apply when either causing a
27 specified result or an intent to cause or danger of causing such a result is an element

1 of an offense and the result occurs or is designed or likely to occur only in another
2 jurisdiction where the conduct charged would not constitute an offense, unless a
3 legislative purpose plainly appears to declare the conduct criminal regardless of the
4 place of the result.

5 (c) ~~Paragraph (1)~~ of Subsection (a)(1) does not apply when causing a particular
6 result is an element of an offense and the result is caused by conduct occurring
7 outside ~~the Territory~~ Guam which would not constitute an offense if the result had
8 occurred there, unless the person intentionally or knowingly caused the result within
9 ~~the Territory~~ Guam.

10 (d) When the offense is homicide, either death of the victim or the bodily impact
11 causing death constitutes a “result,” within the meaning of ~~Paragraph (1) of S~~
12 subsection (a)(1) and if the body of a homicide victim is found within ~~the Territory~~
13 Guam, it is presumed that such result occurred within ~~the Territory~~ Guam.

14 (e) ~~the Territory~~ Guam includes the land and water and the air space above such
15 land and water with respect to which ~~the Territory~~ Guam has legislative jurisdiction.

16 (f) Notwithstanding that territorial jurisdiction may be found under this Section,
17 the court may dismiss, hold in abeyance for up to six months, or with the permission
18 of the defendant, place on an inactive list a criminal prosecution under the law of
19 this Territory where it appears that such action is in the interests of justice because
20 the defendant is being or is likely to be prosecuted for an offense based on the same
21 conduct in another jurisdiction and ~~the Territory~~ Guam’s interest will be adequately
22 served by a prosecution in the other jurisdiction.

23 **§ 1.18. Classes of Crimes.**

24 (a) An offense defined by this Code or by any other statute of Guam, for which
25 a sentence of imprisonment is authorized, constitutes a crime. Crimes are classified
26 as felonies, misdemeanors or petty misdemeanors.

1 (b) A crime is a felony if it is so designated in this Code or if persons convicted
2 thereof may be sentenced to imprisonment for a term which, apart from an extended
3 term, is in excess of one year.

4 (c) A crime is a misdemeanor if it is so designated in this Code or in a statute
5 other than this Code enacted subsequent thereto.

6 (d) Any offense declared by law to constitute a crime, without specification of
7 the grade thereof or of the sentence authorized upon conviction, is a misdemeanor.

8 (e) A crime is a petty misdemeanor if it is so designated in this Code or in a
9 statute other than this Code enacted subsequent thereto or if it is defined by a statute
10 other than this Code which now provides that person convicted thereof may be
11 sentenced to imprisonment for a maximum term of less than one year.

12 (f) An offense defined by this Code or by any other statute of Guam constitutes
13 a violation if it is so designated in this Code or in the law defining the offense or if
14 no other sentence than a fine, or fine and forfeiture or other civil penalty is authorized
15 upon conviction. A violation does not constitute a crime and conviction of a violation
16 shall not give rise to any disability or legal disadvantage based on conviction of a
17 criminal offense.

18 (g) An offense defined by any statute of Guam other than this Code shall be
19 classified as provided in this Section and the sentence that may be imposed upon
20 conviction thereof shall hereafter be governed by this Code.

21 **§ 1.19. Felonies Defined and Classified.**

22 (a) Felonies defined by this Code are classified, for the purpose of sentence, into
23 three degrees, as follows:

- 24 (1) felonies of the first degree;
- 25 (2) felonies of the second degree;
- 26 (3) felonies of the third degree.

1 Any crime declared to be a felony, without specification of degree, is of the third
2 degree.

3 (b) Notwithstanding any other provision of law, a felony defined by any statute
4 of Guam other than this Code shall constitute for the purpose of sentence a felony of
5 the third degree.

6 **§1.20. Relationship of Code to Other Laws; Contempts, Penalties and**
7 **Remedies.**

8 (a) No conduct constitutes an offense unless it is a crime or violation under this
9 Code or other statute of Guam.

10 (b) The provisions of this Code shall apply to offenses defined by other statutes,
11 unless otherwise expressly provided or unless the context otherwise requires.

12 (c) Nothing in this Code shall affect the power of a court to punish contempt or
13 to employ any sanction authorized by law for the enforcement of an order or a civil
14 judgment or decree.

15 (d) Nothing in this Code shall bar or suspend any liability for damages, penalty,
16 forfeiture, or other remedy otherwise authorized by law to be recovered or enforced
17 in any civil action or proceeding, for any conduct punishable by this Code.

18 **§ 1.22. Prosecution for Conduct Which Constitutes More Than One Offense.**

19 When the same conduct of a defendant may establish the commission of more
20 than one offense, the defendant may be prosecuted for each such offense. He may
21 not, however, be convicted of more than one offense if:

22 (a) one offense is included in the other as defined in 8 GCA § 105.58 ~~of the~~
23 ~~Criminal Procedure Code~~;

24 (b) one offense consists only of a conspiracy or other form of preparation to
25 commit the other,

26 (c) inconsistent findings of fact are required to establish the commission of
27 the offenses;

1 (d) the offenses differ only in that one is defined to prohibit a designated kind
2 of conduct generally and the other to prohibit a specific instance of such conduct;
3 or

4 (e) the offense is defined as a continuing course of conduct and the
5 defendant's course of conduct was uninterrupted, unless the law provides that
6 specific periods of such conduct constitute separate offenses.

7 **§ 1.24. Double Jeopardy. Same Offense.**

8 A prosecution of a defendant for a violation of the same provision of the statutes
9 based upon the same facts as a former prosecution is barred by such former
10 prosecution under the following circumstances:

11 (a) The former prosecution resulted in an acquittal by a finding of not guilty
12 by the trier of fact or in a determination that there was insufficient evidence to
13 warrant a conviction. A finding of guilty of a lesser included offense is an
14 acquittal of the greater inclusive offense, although the conviction is subsequently
15 set aside.

16 (b) The former prosecution was terminated, after the complaint had been
17 filed or the indictment found, by a final order or judgment for the defendant,
18 which has not been set aside, reversed, or vacated and which necessarily required
19 a determination inconsistent with a fact or a legal proposition that must be
20 established for conviction of the offense.

21 (c) The former prosecution resulted in a conviction. There is a conviction if
22 the prosecution resulted in a judgment of conviction which has not been reversed
23 or vacated, a verdict of guilty which has not been set aside and which is capable
24 of supporting a judgment, or a plea of guilty accepted by the court. In the latter
25 two cases failure to enter judgment must be for a reason other than a motion of
26 the defendant.

1 (d) The former prosecution was improperly terminated. Except as provided
2 in this Subsection, there is an improper termination of a prosecution if the
3 termination is for reasons not amounting to an acquittal, and it takes place after
4 the jury was impaneled and sworn or, in a trial before a court without a jury, after
5 the first witness was sworn but before findings were rendered by the trier of fact.
6 Termination under any of the following circumstances is not improper:

7 (1) the defendant consents to the termination or waives, by motion to
8 dismiss or otherwise, his right to object to the termination;

9 (2) the trial court finds that the termination is necessary because of the
10 failure of the jury to agree upon a verdict after a reasonable time for
11 deliberation has been allowed; or

12 (3) the trial court finds that the termination is required by a sufficient
13 legal reason and a manifest or absolute or overriding necessity.

14 **§ 1.26. Double Jeopardy. Different Offense.**

15 A prosecution of a defendant for a violation of a different provision of the
16 statutes or based on different facts than a former prosecution is barred by such former
17 prosecution under the following circumstances:

18 (a) The former prosecution resulted in an acquittal or in a conviction as
19 defined in § 1.24 and the subsequent prosecution is for:

20 (1) any offense of which the defendant could have been convicted on the
21 first prosecution;

22 (2) any offense of which the defendant should have been tried on the first
23 prosecution under ~~Subsection (b) of § 65.30 of the Criminal Procedure Code~~
24 8 GCA § 65.30(b) unless the court ordered a separate trial of the charge of
25 such offense; or

26 (3) the same conduct, unless (A) the offense of which the defendant was
27 formerly convicted or acquitted and the offense for which he is subsequently

1 prosecuted each requires proof of a fact not required by the other and the law
2 defining each of such offenses is intended to prevent a substantially different
3 harm or evil, or (B) the second offense was not consummated when the
4 former trial began.

5 (b) The former prosecution was terminated, after the complaint was filed or
6 the indictment found, by an acquittal or by a final order or judgment for the
7 defendant which has not been set aside, reversed or vacated and which acquittal,
8 final order or judgment necessarily required a determination inconsistent with a
9 fact which must be established for conviction of the second offense.

10 (c) The former prosecution was improperly terminated, as improper
11 termination is defined in § 1.24, and the subsequent prosecution is for an offense
12 of which the defendant could have been convicted had the former prosecution
13 not been improperly terminated.

14 **§ 1.28. Concurrent Jurisdiction. When a Bar to Prosecution.**

15 When conduct constitutes an offense within the concurrent jurisdiction of Guam
16 and of the United States or any state, a prosecution in any such other jurisdiction is
17 a bar to a subsequent prosecution in Guam under the following circumstances:

18 (a) the first prosecution resulted in an acquittal or in a conviction as defined
19 in § 1.24 and the subsequent prosecution is based on the same conduct, unless
20 (1) the offense of which the defendant was formerly convicted or acquitted and
21 the offense for which he is subsequently prosecuted each requires proof of a fact
22 not required by the other and the law defining each of such offenses is intended
23 to prevent a substantially different harm or evil or (2) the offense for which the
24 defendant is subsequently prosecuted is intended to prevent a substantially more
25 serious harm or evil than the offense of which he was formerly convicted or
26 acquitted or (3) the second offense was not consummated when the former trial
27 began; or

1 (b) the former prosecution was terminated after the information was filed or
2 the indictment found, by an acquittal or by a final order or judgment for the
3 defendant which has not been set aside, reversed or vacated and which acquittal,
4 final order or judgment necessarily required a determination inconsistent with a
5 fact which must be established for conviction of the offense of which the
6 defendant is subsequently prosecuted.

7 **§ 1.30. Former Prosecutions. When Not a Bar to Present Prosecution.**

8 A prosecution is not a bar within the meaning of §§ 1.24, 1.26 and 1.28 under
9 ~~either~~any of the following circumstances:

10 (a) The former prosecution was before a court which lacked jurisdiction over
11 the defendant or the offense tried in that court; or

12 (b) The former prosecution resulted in a judgment of conviction which was
13 held invalid in a subsequent proceeding on a petition for post-conviction relief
14 or similar process, except that any bar as to reprosecution for a greater inclusive
15 offense created by ~~Subsection (a) of § 1.24(a)~~ shall apply.

16 (c) The former prosecution resulted in a plea of guilty or nolo contendere
17 which was held invalid in an appeal under 8 GCA § 130.15(e) and the defendant
18 may be retried as if the former plea had not been entered.

19 **§ 1.32. [Reserved.]**

20 [Reserved.]

21 ~~**§ 1.34. Rules of Construction.**~~

22 ~~Unless the provision or context otherwise requires, these preliminary provisions~~
23 ~~and rules of construction shall govern the construction of this Code.~~

24 ~~**§ 1.36. Headings.**~~

25 ~~Chapter, article and section headings do not in any manner affect the scope,~~
26 ~~meaning or intent of the provisions of this Code.~~

27 ~~**§ 1.38. Amendments Included.**~~

1 ~~Whenever any reference is made to any portion of this Code or of any other~~
2 ~~statute, such reference shall apply to all amendments and additions heretofore or~~
3 ~~hereafter made.~~

4 **§ 1.40. [Reserved.]**

5 [Reserved.]

6 ~~§ 1.42. Tenses.~~

7 ~~The present tense includes the past and future tenses; and the future, the present.~~

8 ~~§ 1.44. Gender.~~

9 ~~The masculine gender includes the feminine and neuter.~~

10 ~~§ 1.46. Number.~~

11 ~~The singular number includes the plural; and the plural, the singular.~~

12 ~~§ 1.48. Shall and May.~~

13 ~~Shall is mandatory and may is permissive.~~

14 **§ 1.50. Military Authority.**

15 This Code does not affect any authority otherwise conferred by law upon any
16 court-martial or other military authority or officer to prosecute and punish persons
17 violating such codes or laws.

18 **ARTICLE 2**

19 **DEFINITIONS**

20 **§ 1.60. General Definitions Applicable to Entire Title.**

21 Unless otherwise expressly stated:

22 (a) ~~Chapter means a chapter of this Title.~~

23 (b) ~~Article means an article of the chapter in which that term occurs.~~

24 (c) ~~Section means a section of this Code.~~

25 (d) ~~Subsection means a subsection of the section in which that term occurs.~~

26 (e) ~~Paragraph means a paragraph of the subsection in which that term occurs.~~

1 (†) Person means any natural person, partnership, firm, association,
2 corporation or other legal entity.

3 **§ 1.70. Peace Officer.**

4 As used in this Code, peace officer has the meaning provided by 8 GCA § 5.55
5 of the Criminal Procedure Code.

6 ~~**§ 1.80. Territory.**~~

7 ~~As used in this Code, Territory means the territory of Guam.~~

8 **Section 6. Chapter 4, Title 9, Guam Code Annotated, is hereby *repealed***
9 ***and reenacted in its entirety as follows:***

10 **CHAPTER 4**

11 **GENERAL PRINCIPLES OF LIABILITY**

12 **§ 4.10. Conduct to Include Voluntary Act or Omission.**

13 A person is not guilty of an offense unless his liability is based on conduct which
14 includes a voluntary act or the omission to perform an act of which he is physically
15 capable.

16 **§ 4.15. Voluntary Act Defined.**

17 (a) A *voluntary act* is one performed consciously as a result of effort or
18 determination.

19 (b) Possession is a voluntary act if the possessor knowingly procured or received
20 the thing possessed, or was aware of his control of it for sufficient time to have been
21 able to terminate his control.

22 **§ 4.20. Liability for Omission Limited.**

23 A person is not guilty of an offense if his liability is based solely on an omission
24 unless the law defining the offense expressly so provides, or a duty to perform the
25 act is otherwise imposed by law.

26 **§ 4.25. Culpability.**

1 Except as provided in § 4.45, a person is not guilty of a crime unless he acts
2 intentionally, knowingly, recklessly or with criminal negligence, as the law may
3 require, with respect to the conduct, the result thereof or the attendant circumstances
4 which constitute the material elements of the crime.

5 **§ 4.30. Culpability Defined.**

6 (a) A person acts intentionally, or with intent, with respect to his conduct or to a
7 result thereof when it is his conscious purpose to engage in the conduct or cause the
8 result.

9 (b) A person acts knowingly, or with knowledge, with respect to his conduct or
10 to attendant circumstances when he is aware of the nature of his conduct or that those
11 circumstances exist. A person acts knowingly, or with knowledge, with respect to a
12 result of his conduct when he is aware that his conduct is practically certain to cause
13 the result.

14 (c) A person acts recklessly, or is reckless, with respect to attendant
15 circumstances or the result of his conduct when he acts in awareness of a substantial
16 risk that the circumstances exist or that his conduct will cause the result and his
17 disregard is unjustifiable and constitutes a gross deviation from the standard of care
18 that a reasonable person would exercise in the situation.

19 (d) A person acts with criminal negligence, or is criminally negligent, with
20 respect to attendant circumstances or the result of his conduct when he should be
21 aware of a substantial and unjustifiable risk that the circumstances exist or that his
22 conduct will cause the result and his failure to be aware of the risk constitutes a gross
23 deviation from the standard of care that a reasonable person would exercise in the
24 situation.

1 **§ 4.35. Culpability Applied to Elements of Offense.**

2 (a) If the definition of an offense prescribes a culpable mental state but does not
3 specify the conduct, attendant circumstances or result to which it applies, the
4 prescribed culpable mental state shall apply to each such material element.

5 (b) If the definition of a crime prescribes criminal negligence as the culpable
6 mental state, it is also established if a person acts intentionally, knowingly or
7 recklessly. When recklessness suffices to establish a culpable mental state, it is also
8 established if a person acts intentionally or knowingly. When acting knowingly
9 suffices to establish a culpable mental state, it is also established if a person acts
10 intentionally.

11 (c) Knowledge that conduct constitutes an offense, or knowledge of the
12 existence, meaning, or application of the statute defining an offense, is not an
13 element of an offense unless the statute clearly so provides.

14 **§ 4.40. Culpable Mental State Generally Required.**

15 Except as provided in § 4.45, if the definition of a crime does not expressly
16 prescribe a culpable mental state, a culpable mental state is nonetheless required and
17 is established only if a person acts intentionally, knowingly or recklessly.

18 **§ 4.45. ~~Same~~ Culpable Mental State: When Inapplicable.**

19 The culpable mental state requirements of § 4.25 and § 4.40 do not apply if the
20 offense is a violation or if the law defining the offense clearly indicates purpose to
21 dispense with any culpable mental state requirement.

22 **§ 4.50. Causation Established and Defined.**

23 (a) An element of an offense which requires that the defendant have caused a
24 particular result is established when his conduct is an antecedent but for which the
25 result would not have occurred, and,

26 (1) if the offense requires that the defendant intentionally or knowingly
27 caused the result, that the actual result, as it occurred,

1 (A) is within the purpose of contemplation of the defendant, whether the
2 purpose or contemplation extends to natural events or to the conduct of
3 another, or, if not,

4 (B) involves the same kind of injury or harm as that designed or
5 contemplated and is not too remote, accidental in its occurrence or dependent
6 on another's volitional act to have a just bearing on the defendant's liability
7 or on the gravity of his offense;

8 (2) if the offense requires that the defendant recklessly or negligently cause
9 the result, that the actual result, as it occurred,

10 (A) is within the risk of which the defendant was or should have been
11 aware, whether that risk extends to natural events or to the conduct of
12 another, or, if not,

13 (B) involves the same kind of injury or harm as that recklessly or
14 negligently risked and is not too remote, accidental in its occurrence or
15 dependent on another's volitional act to have a just bearing on the defendant's
16 liability or on the gravity of his offense;

17 (3) if the offense imposes strict liability, that the actual result, as it occurred,
18 is a ~~probably~~ probable consequence of the defendant's conduct.

19 (b) A defendant shall not be relieved of responsibility for causing a result if the
20 only difference between what actually occurred and what was designed,
21 contemplated or risked is that a different person or property was injured or affected
22 or that a less serious or less extensive injury or harm occurred.

23 **§ 4.55. Guilt Established by Causing or Aiding Innocent Party in Commission**
24 **of Crime.**

25 A person is guilty of an offense if, acting with the culpability required for the
26 offense, he causes or aids an innocent or non-responsible person to engage in
27 conduct prohibited by the definition of the offense.

1 **§ 4.60. Guilt Established by Complicity.**

2 A person is guilty of an offense if, with the intention of promoting or assisting
3 in the commission of the offense, he induces or aids another person to commit the
4 offense. If the definition of the offense includes lesser offenses, the offense of which
5 each person shall be guilty shall be determined according to his own culpable mental
6 state and to those aggravating or mitigating factors which apply to him.

7 **§ 4.65. Criminal Facilitation Established and Punished.**

8 A person is guilty of criminal facilitation when, knowing that another person
9 intends to engage in conduct which in fact constitutes a crime, he knowingly
10 furnishes substantial assistance to him.

11 Criminal facilitation of a felony of the first degree is a felony of the third degree.

12 Criminal facilitation of a felony of the second or of the third degree is a
13 misdemeanor.

14 Criminal facilitation of a misdemeanor or petty misdemeanor is a petty
15 misdemeanor.

16 **§ 4.70. Criminal Liability for Acts of Another: ~~Non-Availability of Certain~~**
17 **Defenses Not Available.**

18 In any prosecution in which the criminal liability of the defendant is based upon
19 the conduct of another person, it is no defense that:

20 (a) the offense can be committed only by a particular class of persons to
21 which the defendant does not belong; or

22 (b) the other person has legal immunity from prosecution, or has not been
23 prosecuted for or convicted of an offense based upon the conduct in question, or
24 has previously been acquitted.

25 **§ 4.75. ~~Same~~ Criminal Liability for Acts of Another: Defenses Available.**

1 Unless otherwise provided by law, in any prosecution in which the criminal
2 liability of the defendant is based upon the conduct of another person, it is a defense
3 that:

4 (a) the defendant was a victim of the offense; or

5 (b) under circumstances manifesting a voluntary and complete renunciation
6 of his criminal intent, the defendant withdrew from participation in the offense
7 and made a reasonable effort to stop the commission of the offense.

8 **§ 4.80. Criminal Liability of Corporations.**

9 (a) A corporation may be convicted of:

10 (1) any offense committed in furtherance of its affairs on the basis of conduct
11 performed, authorized, requested, commanded or recklessly tolerated by (A) the
12 board of directors; (B) a managerial agent acting in the scope of his employment;
13 or (C) any other person for whose conduct the statute defining the offense
14 provides criminal responsibility;

15 (2) any offense consisting of a failure to perform a duty imposed by law; or

16 (3) any petty misdemeanor or violation committed by an agent of the
17 corporation acting in the scope of his employment in furtherance of its affairs.

18 (b) It is no defense that an individual upon whose conduct liability of the
19 corporation is based has not been prosecuted or convicted, has been convicted of a
20 different offense or is immune from prosecution.

21 (c) As used in this Section, managerial agent means an agent of the corporation
22 having duties of such responsibility that his conduct may fairly be found to represent
23 the policy of the corporation.

24 **Section 7. Chapter 16, Title 9, Guam Code Annotated, is hereby *repealed***
25 ***and reenacted in its entirety as follows:***

26 **CHAPTER 16**

27 **CRIMINAL HOMICIDE**

1 **§ 16.10. Definitions Applicable to Chapter.**

2 As used in this Chapter:

3 (a) *Human Being* means a person who has been born and is alive;

4 (b) *Bodily Injury* means physical pain, illness, unconsciousness or any
5 impairment of physical condition;

6 (c) *Serious Bodily Injury* means bodily injury which creates: serious
7 permanent disfigurement; a substantial risk of death or serious, permanent
8 disfigurement; severe or intense physical pain; or protracted loss or impairment
9 of consciousness or of the function of any bodily member or organ;

10 (d) *Deadly Weapon* means any firearm, or other weapon, device, instrument,
11 material or substance, whether animate or inanimate, which in the manner it is
12 used or is intended to be used is known to the defendant to be capable of
13 producing death or serious bodily injury.

14 **§ 16.20. Criminal Homicide Defined.**

15 (a) A person is guilty of criminal homicide if he causes the death of another
16 human being:

17 (1) intentionally and with premeditation; or

18 (2) intentionally; or

19 (3) knowingly; or

20 (4) recklessly; or

21 (5) by criminal negligence.

22 (b) *Criminal homicide* is aggravated murder, murder, manslaughter or negligent
23 homicide.

24 **§ 16.30. Aggravated Murder Defined.**

25 (a) Criminal homicide constitutes aggravated murder when:

26 (1) it is committed intentionally with premeditation; or

1 (2) it is committed during the commission or attempt to commit any felony
2 defined in Chapters 22, 25, 31, 34, 37, 40 or 58 of this Title; or

3 (3) death is directly caused by the illegal use of a Schedule I or Schedule II
4 Controlled Substance, as defined by Chapter 67 of this Title, to a minor child
5 under the age of eighteen (18) years old ~~(Any person who knowingly or willingly~~
6 ~~transfers or sells any Schedule I Controlled Substance, as defined by Chapter 67~~
7 ~~of this Title, to a minor child under the age of eighteen (18) years old in violation~~
8 ~~of the provisions of Chapter 67 of this Title, and such controlled substances~~
9 ~~directly causes the death of such minor child, is guilty of aggravated murder.~~
10 This Section shall *not* apply to health care professionals and pharmacists in the
11 legitimate practice of the healing arts.); or

12 (4) death of a minor child under the age of eighteen (18) is directly caused
13 by a knowing or willing transfer or sale of any Schedule I or Schedule II
14 Controlled Substance as defined by, and in violation of, Chapter 67 of this Title
15 by a person who is not licensed to prescribe or dispense the substance; or

16 (4) (5) it is committed upon the orders of another person. Such person giving
17 the order is also guilty of aggravated murder.

18 (b) Aggravated murder is a felony of the first degree, but a person convicted of
19 aggravated murder shall be sentenced to life imprisonment notwithstanding any
20 other provision of law; provided, further, that any person convicted of aggravated
21 murder shall *not* be eligible for parole, work release, educational programs outside
22 the confines of prison nor shall his sentence be suspended.

23 § 16.40. Murder Defined.

24 (a) Criminal homicide constitutes murder when:

25 (1) it is committed intentionally or knowingly; or

26 (2) it is committed recklessly under circumstances manifesting extreme
27 indifference to the value of human life; or

1 (3) death is directly caused by the illegal use of a Schedule I or Schedule II
2 Controlled Substance, defined by Chapter 67 of this Title, to any person. ~~Any~~
3 ~~person who knowingly or willingly transfers or sells any Schedule I Controlled~~
4 ~~Substance to a person over the age of eighteen (18) years old in violation of the~~
5 ~~provisions of Chapter 67 of this Title, and such controlled substance directly~~
6 ~~causes the death of such person, is guilty of murder. This Section shall *not* apply~~
7 ~~to health care professionals and pharmacists in the legitimate practice of the~~
8 ~~healing arts; or~~

9 (4) death of a person who is eighteen (18) years or older is the result of a
10 knowing or willing transfer or sale of any Schedule I or Schedule II Controlled
11 Substance as defined by, and in violation of, Chapter 67 of this Title.

12 (b) Murder is a felony of the first degree, but a person convicted of murder shall
13 be sentenced to life imprisonment notwithstanding any other provision of law;
14 provided, however, that any person convicted of murder shall be eligible for parole
15 after serving fifteen (15) years as provided in § 80.72 of this Title and no part of said
16 sentence shall be suspended; provided, further, that any person convicted of murder
17 shall also *not* be eligible for work release or educational programs outside the
18 confines of prison.

19 **§ 16.50. Manslaughter Defined and Classified.**

20 (a) Criminal homicide constitutes manslaughter when:

21 (1) it is committed recklessly; or

22 (2) a homicide which would otherwise be murder is committed under the
23 influence of extreme mental or emotional disturbance for which there is
24 reasonable explanation or excuse. (The reasonableness of such explanation or
25 excuse shall be determined from the viewpoint of a reasonable person in the
26 defendant's situation under the circumstances as he believes them to be. The

1 defendant must prove the reasonableness of such explanation or excuse by a
2 preponderance of the evidence.); or

3 (3) death is indirectly or proximately caused, such as an accident, by the
4 illegal use of a Schedule I or Schedule II Controlled Substance, as defined by
5 Chapter 67 of this Title, to a person under the influence of such controlled
6 substance; or ~~. Any person who knowingly or willingly transfers or sells any
7 Schedule I Controlled Substance to a person over the age of eighteen (18) years
8 old in violation of the provisions of Chapter 67 of this Title, and such controlled
9 substance indirectly or proximately causes the death of such person, is guilty of
10 manslaughter. This Section shall *not* apply to health care professionals and
11 pharmacists in the legitimate practice of the healing arts.~~

12 (4) death of a person who is eighteen (18) years or older results from a
13 knowing or willing transfer or sale of a Schedule I or Schedule II controlled
14 substance, where such controlled substance proximately causes the death of such
15 person.

16 (b) Manslaughter is a felony of the first degree.

17 **§ 16.60. Negligent Homicide Defined and Classified.**

18 (a) Criminal homicide constitutes negligent homicide when it is committed by
19 criminal negligence.

20 (b) Negligent homicide is a felony of the third degree.

21 **Section 8. Chapter 17, Title 9, Guam Code Annotated, is hereby *repealed***
22 ***and reenacted in its entirety as follows:***

23 **CHAPTER 17**

24 **UNBORN VICTIMS OF VIOLENCE ACT**

25 **§ 17.01. Title.**

26 This Act may be cited or referred to as “The Unborn Victims of Violence Act of
27 2016.”

1 **§ 17.02. Legislative Statement and Intent.**

2 (a) I Liheslaturan Guåhan understands that the physical harm or death of an
3 expectant woman could equally result in the physical harm and death to the unborn
4 child in her womb. For the woman who desires to carry and care for her unborn
5 child to term, the protection and safety of the living being in her womb is something
6 she should not have to worry about. To this statement, former President George W.
7 Bush once expressed, “Any time an expectant mother is a victim of violence, two
8 lives are in the balance, each deserving protection, and each deserving justice.”

9 (b) I Liheslaturan Guåhan finds that “The Unborn Victims of Violence Act of
10 2016” (Act) is a step toward protecting an expectant mother and her unborn child,
11 and recognizes that an unborn child is a legal victim if he or she is injured or killed
12 during the commission of crimes of violence.

13 (c) I Liheslaturan Guåhan believes and further recognizes that while an expectant
14 mother has a legal right to determine the fate of her unborn child, she should also be
15 assured that any harm to her unborn child caused from unwarranted and unexpected
16 harm directed at her will result in additional criminal sanctions against the
17 responsible person(s).

18 **§ 17.03. Definitions.**

19 For the purposes of this Chapter, the following terms are defined to mean:

20 (a) person shall not include the pregnant woman whose unborn child is
21 harmed;

22 (b) unborn child shall mean a child in utero, and the term “child in utero” or
23 “child, who is in utero” means a member of the species homo sapiens, at any
24 stage of development, who is carried in the womb.

25 **§ 17.04. Application.**

1 (a) This Chapter shall not apply to acts that cause bodily harm to an unborn child
2 if those acts were committed during any legal abortion, in accordance with Guam
3 law.

4 (b) This Chapter shall not apply to acts that were committed under usual and
5 customary standards of medical practice during diagnostic testing or therapeutic
6 treatment.

7 **§ 17.05. Murder of an Unborn Child.**

8 (a) A person commits the offense of murder of an unborn child if, in performing
9 acts which cause the death of an unborn child without lawful jurisdiction, the person:

10 (1) either intended to cause the death of, or cause serious bodily injury to,
11 the pregnant woman or her unborn child, or knew that such acts would cause
12 death or serious bodily injury to the pregnant woman or her unborn child; or

13 (2) commits such acts recklessly under circumstances manifesting extreme
14 indifference to the value of the life of the pregnant woman or her unborn child.

15 (b) The penalty for murder of an unborn child shall be the same as the penalty
16 for murder defined in Chapter 16 of Title 9, Guam Code Annotated.

17 **§ 17.06. Manslaughter of an Unborn Child.**

18 (a) A person who kills an unborn child without lawful justification commits
19 manslaughter of an unborn child if, at the time of the killing, the person was acting
20 under a sudden and intense passion resulting from serious provocation by another
21 who the offender endeavors to kill, but the person negligently or accidentally causes
22 the death of the unborn child.

23 (b) Manslaughter of an unborn child is a felony of the first degree and is
24 punishable to the same extent and manner as the offense of manslaughter defined in
25 Chapter 16 of Title 9, Guam Code Annotated.

26 **§ 17.07. Aggravated Assault of an Unborn Child.**

1 (a) A person commits aggravated assault of an unborn child when, in committing
2 assault against a pregnant woman, he or she causes serious bodily injury to an unborn
3 child.

4 (b) Aggravated assault of an unborn child is punishable to the same extent and
5 manner as the offense of aggravated assault in the second degree defined in Chapter
6 19 of Title 9, Guam Code Annotated.

7 **§ 17.08. Assault of an Unborn Child.**

8 (a) A person commits assault of an unborn child if he or she, without legal
9 justification and by any means, commits assault on a pregnant woman as defined in
10 § 19.30 of Chapter 19, Title 9, Guam Code Annotated.

11 (b) It is not a defense that no injury was caused to the unborn child as a result of
12 the assault.

13 (c) Assault of an unborn child is punishable to the same extent and manner as
14 the offense of assault defined in Chapter 19 of Title 9, Guam Code Annotated.

15 **§ 17.09. Knowledge Not a Defense.**

16 An offense committed under this Act does not require proof that:

17 (a) the person committing the offense had knowledge or should have had
18 knowledge that the victim of the underlying offense was pregnant; or

19 (b) the person committing the offense did not intend to cause the death of, or
20 bodily injury to, the unborn child.

21 **§ 17.10. No Prohibition.**

22 The provisions of this Act shall not be construed to prohibit the prosecution of
23 any person under any other provision of law.

24 **Section 9. Chapter 19, Title 9, Guam Code Annotated, is hereby *repealed***
25 ***and reenacted in its entirety as follows:***

26 **CHAPTER 19**

27 **ASSAULT, RECKLESS ENDANGERING, TERRORIZING**

1 **§ 19.10. General Definitions.**

2 As used in this Chapter, the terms bodily injury, serious bodily injury and deadly
3 weapon have the meanings provided by § 16.10.

4 **§ 19.20. Aggravated Assault; Defined & Punished.**

5 (a) A person is guilty of aggravated assault if he either recklessly causes or
6 attempts to cause:

7 (1) serious bodily injury to another in circumstances manifesting extreme
8 indifference to the value of human life;

9 (2) serious bodily injury to another;

10 (3) bodily injury to another with a deadly weapon.

11 (b) Aggravated assault under Paragraph (1) of Subsection (a) is a felony of the
12 second degree; aggravated assault under Paragraphs (2) or (3) or Subsection (a) is a
13 felony of the third degree; provided that any person convicted of aggravated assault
14 shall not be eligible for work release or educational programs outside the confines
15 of prison.

16 **§ 19.30. Assault; Defined & Punished.**

17 (a) A person is guilty of assault if he:

18 (1) either recklessly causes or attempts to cause bodily injury to another;

19 (2) recklessly uses a deadly weapon in such a manner as to place another in
20 danger of bodily injury; or

21 (3) by physical menace intentionally puts or attempts to put another in fear
22 of imminent bodily injury.

23 (b) (1) An assault against a peace officer who is performing his official duties as
24 a peace officer is a felony of the third degree if the perpetrator knew *or* should
25 have known that the victim was a peace officer.

1 (A) In any assault against a peace officer, the jury *shall*, with any finding
2 of guilty, also return a finding as to whether the perpetrator had actual
3 knowledge that the victim was a peace officer.

4 (B) *If* the jury finds that the perpetrator had actual knowledge that the
5 victim was a peace officer, the court *shall* impose a minimum sentence of
6 one (1) year in prison without suspension, probation, parole, *or* work release.

7 (2) For purposes of this § 19.30, *peace officer* means one so defined in §
8 5.55, Title 8, Guam Code Annotated, and to also include those individuals
9 serving in a volunteer law enforcement capacity within any government of Guam
10 law enforcement entity.

11 (c) An assault committed by a peace officer on a person in his custody or control,
12 without any provocation whatsoever and with the use of excessive force, is a felony
13 of the third degree.

14 (d) An assault committed in a fight or scuffle entered into by mutual consent is
15 a petty misdemeanor.

16 (e) Any other assault is a misdemeanor.

17 **§ 19.40. Reckless Conduct; Defined & Punished.**

18 (a) A person is guilty of reckless conduct if he:(1) recklessly engages in conduct
19 which unjustifiably places or may place another in danger of death or serious bodily
20 injury;

21 (2) intentionally points a firearm at or in the direction of another, whether or
22 not the defendant believes it to be loaded.

23 (b) Reckless conduct is a misdemeanor.

24 **§ 19.50. Terroristic Conduct; Defined & Punished.**

25 (a) A person is guilty of terroristic conduct if he threatens to commit any crime
26 of violence with intent to cause evacuation of a building, place of assembly, or

1 facility of public transportation, or otherwise to cause serious public inconvenience,
2 or in reckless disregard of the risk of causing such inconvenience.

3 (b) Terroristic conduct is a felony of the third degree.

4 (c) Whoever, through the use of the mail, telephone, tablet, computer, telegraph,
5 social media, artificial intelligence, automated communication, deepfake or
6 synthetic media technologies, or any other electronic or digital means, or other
7 instrument of interstate or foreign commerce, or in or affecting interstate or foreign
8 commerce, or in or affecting interstate or foreign commerce, willfully makes any
9 threat, or maliciously conveys false information knowing the same to be false,
10 concerning an attempt or alleged attempt being made, or to be made, to kill, injure,
11 or intimidate any individual or unlawfully to damage or destroy any building,
12 vehicle, or other real or personal property by means of fire or an explosive shall be
13 a felony of the third degree and, notwithstanding any other provision of law, be
14 imprisoned for not more than ten (10) years and fined pursuant to paragraph (d),
15 *infra*, or both.

16 (d) Whoever commits a violation of this Section by making a threat or perceived
17 threat, conveying false information as described in Subsection (c), and such conduct
18 is directed against a public building, public facility, place of business, healthcare
19 facility or public or private school, and such conduct results in a substantial
20 disruption of public services, public safety, or government operations, shall, upon
21 conviction, be subject to the penalties prescribed herein and shall be deemed to have
22 committed a crime against the community. Prosecution under this Subsection shall
23 not preclude prosecution under § 43.31 of Chapter 43, Title 9, Guam Code
24 Annotated, where applicable. For Purposes of this Subsection:

25 (1) 'Public building' means any structure owned, leased, or operated by the
26 government of Guam or any of its subdivisions.

1 (2) 'Public facility' includes schools, hospitals, transportation terminals,
2 utility installations, and similar infrastructure serving a public function.

3 (e) Fines for a violation of this Section shall not be less than Two Thousand Five
4 Hundred Dollars (\$2,500.00) and no more than Twenty-Five Thousand Dollars
5 (\$25,000) per location affected. Fines shall be continuously appropriated in the
6 following order of priority:

7 (1) One Thousand Dollars (\$1 ,000) to the Flame Fund;

8 (2) One Thousand Dollars (\$1 ,000) to the Police Services Fund;

9 (3) Five Hundred Dollars (\$500.00) to the Enhanced 911 Fund; and

10 (4) Any fines collected beyond Two Thousand Five Hundred Dollars
11 (\$2,500) per location shall be continuously appropriated to the Criminal Injuries
12 Compensation Fund.

13 (f) Any person, business or other party, affected by the violator(s) of this Section,
14 may recover actual damages, costs, and attorney's fees in a civil action.

15 (g) Section 80.39.1, 9 GCA shall not apply to the minimum fines required by
16 this Section. Notwithstanding any other provision of law, fines assessed pursuant to
17 this Section shall not be converted to Community Service as provided for in Article
18 6, Chapter 80, 9 GCA.

19 (h) Conduct that involves knowingly providing false information to law
20 enforcement or emergency services, and which does not involve the intent or
21 reckless disregard necessary to constitute terroristic conduct as defined in this
22 Section, may be prosecuted under § 55.20 or § 55.25 of this Title, as appropriate.
23 Nothing in the Subsection shall preclude prosecution under this Section, where the
24 elements of terroristic conduct are met, no shall it be construed to limit the discretion
25 of prosecutors to pursue charges under one or more applicable provision of law.

26 **§ 19.60. Terrorizing; Defined & Punished.**

27 (a) A person is guilty of terrorizing if he communicates to any person a threat to

1 commit or to cause to be committed a crime of violence dangerous to human life,
2 against the person to whom the communication is made or another, to any person
3 and the natural and probable consequence of such a threat, is to place the person to
4 whom the threat is communicated or the person threatened in reasonable fear that
5 crime will be committed.

6 (b) Terrorizing is a felony of the third degree.

7 **§ 19.69. Definitions.**

8 Unless otherwise indicated, as used in § 19.70:

9 (a) *Harasses* or *harassment* means a knowing and willful course of conduct,
10 whether physical, verbal, written, electronic, telephonic, via or by use of a
11 computer, computer network, computer system, telephone network, data
12 network, text message, instant message, or otherwise, directed at a specific
13 person which alarms, annoys, or distresses the person, and which serves no
14 legitimate purpose. Such course of conduct must be of a nature to cause a
15 reasonable person to suffer substantial emotional distress, and must cause
16 substantial emotional distress.

17 (b) *Course of conduct* means a pattern of conduct composed of a series of
18 acts over a period of time, however short, evidencing continuity of purpose.
19 Constitutionally and statutorily protected activity, including, but *not* limited to,
20 picketing as a result of a labor dispute, is *not* included in this definition.

21 (c) *Credible threat* means any threat, physical or verbal, overtly or subtly
22 manifested, constituting a threat with the intent and apparent ability to carry out
23 the threat with the person who is the target of the threat to reasonably fear for his
24 or her safety or the safety of his or her immediate family. Such threatening
25 advance must be against the life of, or a threat to cause bodily injury to, the
26 person threatened or to a member of his or her immediate family.

1 (d) *Computer* means any electronic, magnetic, optical, electrochemical, *or*
2 other high-speed data processing device performing logical, arithmetic, *or*
3 storage functions, and includes all computer equipment connected *or* related to
4 such a device in a computer system *or* computer network, but *shall not* include
5 an automated typewriter or typesetter, a portable hand-held calculator, *or* other
6 similar device.

7 (e) *Computer network* means two (2) or more computers or computer
8 systems interconnected by communication lines, including microwave,
9 electronic, or any other form of communication.

10 (f) *Computer system* means a set of interconnected computer equipment
11 intended to operate as a cohesive system.

12 **§ 19.70. Stalking.**

13 (a) A person is guilty of simple stalking if he or she willfully, maliciously, and
14 repeatedly, follows or harasses another person or ~~who~~ makes a credible threat with
15 intent to place that person or a member of his or her immediate family in fear of
16 death or bodily injury.

17 (b) A person is guilty of advanced stalking if he or she violates Subsection (a) of
18 this Section when there is a temporary restraining order or an injunction or both or
19 any other court order in effect prohibiting the behavior described in that Subsection
20 against the same party.

21 (c) A person is guilty of advanced stalking if he or she violates Subsection (a) of
22 this Section a second or subsequent time against the same victim, within seven (7)
23 years of a prior conviction under that Subsection, and involving an harassment or a
24 credible threat of violence, as defined in §19.69 of this Chapter.

25 (d) Simple stalking is a felony of the third degree.

26 (e) Advanced stalking is a felony of the second degree.

27 (f) This Section *shall not* apply to conduct which occurs during labor picketing.

1 **§ 19.80. Strangulation; Defined & Punished.**

2 (a) A person is guilty of strangulation if he knowingly or intentionally, against
3 the will of another, impedes the normal breathing or circulation of the blood of
4 another by applying pressure to the throat or neck or by blocking the nose or mouth
5 of another.

6 (b) Strangulation is a felony of the third degree; provided, that any person
7 convicted of strangulation shall not be eligible for work release or educational
8 programs outside the confines of prison.

9 **§ 19.81. Interfering with the Reporting of Family Violence; Defined &**
10 **Punished.**

11 (a) Any person commits the crime of interfering with the reporting of family
12 violence if the person:

13 (1) commits an act of family violence, as defined in § 30.10 of Chapter 30
14 of this Title; and

15 (2) intentionally, knowingly, or recklessly prevents or attempts to prevent
16 the victim of or a witness to that act of family violence from calling a 911
17 emergency communication system, obtaining medical assistance, or making a
18 report to any law enforcement official.

19 (b) Commission of a crime of family violence under Subsection (a) of this
20 Section is a necessary element of the crime of interfering with the reporting of family
21 violence.

22 (c) Interference with the reporting of family violence is a ~~felony of the third~~
23 ~~degree~~ misdemeanor.

24 **§ 19.82. Interfering with the Reporting of Criminal sexual conduct;**
25 **Defined and Punished.**

26 (a) Any person commits the crime of interfering with the reporting of criminal
27 sexual conduct if the person:

1 (1) commits an act of criminal sexual conduct or assists in or ~~abets~~abets any
2 act of criminal sexual conduct, as enumerated in Chapter 25 of this Title; and

3 (2) intentionally, knowingly, or recklessly prevents or attempts, either
4 directly or through other persons, to prevent the victim of or a witness to that act
5 of criminal sexual conduct from calling a 911 emergency communication
6 system, obtaining medical assistance, or making a report to any law enforcement
7 officer or other official.

8 (b) Commission of, or assisting in or ~~abetting~~abetting, a crime of criminal
9 sexual conduct under Chapter 25 of this title is a necessary element of the crime of
10 interfering with the reporting of criminal sexual conduct.

11 (c) Interference with the reporting of crimes of criminal sexual conduct is a
12 felony of the third degree.

13 **Section 10. Chapter 22, Title 9, Guam Code Annotated, is hereby *repealed***
14 ***and reenacted in its entirety as follows:***

15 **CHAPTER 22**

16 **KIDNAPPING AND RELATED OFFENSES**

17 **§ 22.10. General Definitions - Ref. § 16.10.**

18 As used in this chapter, the terms bodily injury and serious bodily injury have
19 the meanings provided by § 16.10.

20 **§ 22.20. Kidnapping; Defined & Punished.**

21 (a) A person is guilty of kidnapping if he unlawfully removes another from his
22 place of residence or business, or a substantial distance from the vicinity where he
23 is found, or if he unlawfully confines another for a substantial period, with any of
24 the following purposes:

- 25 (1) to hold for ransom or reward;
- 26 (2) to facilitate commission of any felony or flight thereafter;
- 27 (3) to inflict bodily injury on or to terrorize the victim or another; or

1 (4) to interfere with the performance of any governmental or political
2 function.

3 (b) Kidnapping is a felony of the first degree unless the defendant voluntarily
4 releases the victim alive and in a safe place prior to trial, in which case it is a felony
5 of the second degree. In the case of kidnapping as a felony of the first degree, the
6 court shall impose a sentence of imprisonment of a minimum term of ten (10) years
7 and may impose a maximum sentence of up to twenty-five (25) years; said minimum
8 term shall not be suspended nor probation be imposed in lieu of such minimum term
9 nor shall parole or work release be granted before completion of the minimum term.
10 The sentence shall include a special parole term of not less than three (3) years in
11 addition to such term of imprisonment.

12 (c) A removal or confinement is unlawful within the meaning of this section if it
13 is accomplished by force, threat or deception, or, in the case of a person who is under
14 the age of fourteen (14) or incompetent, if it is accomplished without the consent of
15 a parent, guardian or other person responsible for general supervision of his welfare.

16 **§ 22.30. Felonious Restraint; Defined & Punished.**

17 A person commits a felony of the third degree if he knowingly:

18 (a) restrains another unlawfully in circumstances exposing him to risk of
19 serious bodily injury; or

20 (b) holds another in a condition of involuntary servitude.

21 **§ 22.35. Unlawful Restraint; Defined & Punished.**

22 (a) A person commits the offense of unlawful restraint when he knowingly,
23 without legal authority, detains another.

24 (b) Unlawful restraint, punishment for. Unlawful restraint is a misdemeanor.

25 **§ 22.40. Child Stealing; Defined & Punished.**

26 (a) A person is guilty of child stealing when he takes or keeps a child who is less
27 than fourteen (14) years old and who is not his natural or adopted child with intent

1 to conceal that child from his parent, legal guardian or other person having that child
2 in his care or custody or under his control.

3 (b) This section shall not apply to a relative of a child who believes that taking
4 or keeping that child is necessary to protect him from physical or emotional harm.

5 (c) Child stealing is a felony of the third degree.

6 **§ 22.50. Custodial Interference; Defined & Punished.**

7 (a) A person is guilty of custodial interference in the first degree if:

8 (1) Being a relative of the person, he knowingly takes or entices a person
9 less than eighteen (18) years old from his lawful custody knowing that he has no
10 right to do so and during the taking, subjects the person to serious bodily injury.

11 (b) A person is guilty of custodial interference in the second degree if:

12 (1) not being a relative of the person, he knowingly takes or entices a person
13 less than eighteen (18) years old from his lawful custodian, knowing that he has
14 no right to do so; or

15 (2) he knowingly takes or entices from lawful custody any incompetent
16 person or other person entrusted by authority of law to the custody of another
17 person or an institution.

18 (c) A person is guilty of custodial interference in the third degree if being a parent
19 of a child and with knowledge of court order relating to the custody of that child,
20 violates the court order and takes or keeps the child with intent to conceal him from
21 his legal guardian or other person having that child in his care or custody or under
22 his control.

23 (d) Custodial interference in the first degree is a felony of the second degree;
24 custodial interference in the second degree is a felony of the third degree and
25 custodial interference in the third degree is a misdemeanor.

26 **§ 22.60. Criminal Intimidation, Defined & Punished.**

1 (a) A person is guilty of criminal intimidation if he knowingly compels or
2 induces another to do an act which the latter has a legal privilege not to do or to
3 refrain from doing an act which the latter has a legal privilege to do by threatening
4 to:

5 (1) commit any criminal offense;

6 (2) accuse anyone of a criminal offense;

7 (3) expose any secret tending to subject any person to hatred, contempt or
8 ridicule, or to impair his credit or business repute; or

9 (4) take or withhold action as an official or to cause an official to take or
10 withhold action.

11 (b) Criminal intimidation is a misdemeanor.

12 **Section 11. Chapter 25, Title 9, Guam Code Annotated, is hereby *repealed***
13 ***and reenacted in its entirety as follows:***

14 **CHAPTER 25**

15 **SEXUAL OFFENSES**

16 **§ 25.10. Definitions.**

17 (a) As used in this Chapter:

18 (1) “Actor” means a person accused of criminal sexual conduct;

19 (2) “Consent” means words or overt actions by a person indicating a freely
20 given present agreement to perform a particular sexual act with the actor.
21 Consent does not mean the existence of a prior or current social relationship
22 between the actor and the victim or that the victim failed to resist a particular
23 sexual act.

24 (A) A person who is mentally incapacitated or physically helpless as
25 defined by this Chapter cannot consent to a sexual act.

26 (B) Corroboration of the victim’s testimony is not required to show lack
27 of consent.

1 (3) “Force” or “Coercion” includes, but is not limited to, any of the following
2 circumstances:

3 (A) when the actor overcomes the victim through the actual application
4 of physical force or physical violence;

5 (B) when the actor coerces the victim to submit by threatening to use
6 force or violence on the victim and the victim believes that the actor has the
7 present ability to execute these threats;

8 (C) when the actor coerces the victim to submit by threatening to retaliate
9 in the future against the victim or any other person and the victim believes
10 that the actor has the ability to execute this threat. As used in this Subsection,
11 to retaliate includes threats of physical punishment, kidnapping, or extortion;

12 (D) when the actor engages in the medical treatment or examination of
13 the victim in a manner or for purposes which are medically recognized as
14 unethical or unacceptable; or

15 (E) when the actor, through concealment or by the element of surprise,
16 is able to overcome the victim.

17 (4) “Intimate Parts” includes the primary genital area, groin, inner thigh,
18 buttock, or breast of a human being;

19 (5) “Mentally Impaired” means that a person suffers from a mental disease
20 or defect which renders that person temporarily or permanently incapable of
21 appraising the nature of his or her conduct;

22 (6) “Mentally Incapacitated” means

23 (A) that a person is rendered temporarily incapable of appraising or
24 controlling his or her conduct due to the influence of a narcotic, anesthetic,
25 or other substance administered to that person without his or her consent, or
26 due to any other act committed upon that person without his or her consent;
27 or

1 (B) that a person is voluntarily under the influence of any substance or
2 substances to a degree that renders them incapable of consenting or incapable
3 of appreciating, understanding, or controlling the person's conduct.

4 (7) "Physically Helpless" means that a person is

5 (A) unconscious;₂

6 (B) asleep;₂

7 (C) unable to withhold consent or to withdraw consent because of a
8 physical condition;₂ or

9 (D) for any other reason, is physically unable to communicate
10 unwillingness to an act;₂

11 (8) "Personal Injury" means bodily injury, disfigurement, mental anguish,
12 chronic pain, pregnancy, disease, or loss or impairment of a sexual or
13 reproductive organ;₂

14 (9) "Sexual Contact" includes the intentional touching of the victim's or
15 actor's intimate parts or the intentional touching of the clothing covering the
16 immediate area of the victim's or actor's intimate parts, if that intentional
17 touching can reasonably be construed as being for the purpose of sexual arousal
18 or gratification;₂

19 (10) "Sexual Penetration" means sexual intercourse, cunnilingus, fellatio,
20 anal intercourse, or any other intrusion, however slight, of any part of a person's
21 body or of any object into the genital or anal openings of another person's body,
22 but emission of semen is not required;~~and~~₂

23 (11) "Victim" means the person alleging to have been subjected to criminal
24 sexual conduct.

25 (12) "Consanguinity or Relationship by blood" means a relationship between
26 persons arising by descent from a common ancestor or a relationship by birth
27 rather than by marriage. The degree of consanguinity is determined by counting

1 upward from one of the persons in question to the nearest common ancestor, and
2 then down to the other person, calling it one degree for each generation in the
3 ascending as well as the descending line.

4 (13) “Affinity” is the relation existing in consequence of marriage between
5 each of the married persons and the blood relatives of the other. The method of
6 computing degrees of affinity is the same method as computing degrees of
7 consanguinity.

8 (14) “Dating relationship” means a relationship between individuals who
9 have or have had a continuing relationship of a romantic or intimate nature. The
10 existence of such a relationship shall be determined based on consideration of:

11 (A) the length of the relationship;

12 (B) the nature of the relationship; and

13 (C) the frequency and type of interaction between the persons involved
14 in the relationship. A casual acquaintanceship or ordinary fraternization in a
15 business or social context does not constitute a “dating relationship.”

16 (15) Adoption refers to the act where an adult formally becomes the guardian
17 of a child and incurs the rights and obligations of a parent.

18 (16) “Cunnilingus” is the touching of the urethral opening, vaginal opening,
19 or labia with the actor’s mouth.

20 § 25.15. First Degree Criminal Sexual Conduct.

21 (a) A person is guilty of criminal sexual conduct in the first degree if he or she
22 engages in sexual penetration with the victim and if any of the following
23 circumstances exists:

24 (1) the victim is under fourteen (14) years of age;

25 (2) the victim is at least fourteen (14) but less than sixteen (16) years of age
26 and any of the following circumstances exists:

27 (A) the actor is a member of the same household as the victim;

1 (B) the actor is related to the victim by blood, adoption or affinity to the
2 fourth degree to the victim, or

3 (C) the actor is in a position of authority over the victim and used this
4 authority to coerce the victim to submit;

5 (D) the actor is a teacher, substitute teacher, intern/student teacher or
6 administrator of the public school, nonpublic school, school district, in which
7 that other person is enrolled;

8 (E) the actor is an employee or a contractual service provider of the
9 public school, nonpublic school, or school district, in which that other person
10 is enrolled, or is a volunteer who is not a student in any public school or
11 nonpublic school, or is an employee of the government of Guam or
12 government of the United States assigned to provide any service to that
13 public school, nonpublic school, or school district, and the actor uses his or
14 her employee, contractual, or volunteer status to gain access to, or to
15 establish a relationship with, that other person;

16 (F) the actor is an employee, contractual service provider, or volunteer
17 of a child care facility, or a person licensed or lawfully authorized to operate
18 a foster care facility or home or a foster care group home in which that other
19 person is a resident, and the sexual penetration occurs during the period of
20 that other person's residency;

21 (G) the actor is an employee, contractual service provider, or volunteer
22 of a social services organization, victims' advocacy organization, youth
23 correctional or detention facility, drug treatment facility or medical,
24 psychiatric or psychological treatment facility and the sexual penetration
25 occurs during the period of that other person's residency; or

26 (H) the actor is in a dating relationship with a member of the victim's
27 household.

1 (3) sexual penetration occurs under circumstances involving the commission
2 of any other felony;

3 (4) the actor is aided or abetted by one or more other persons and either of
4 the following circumstances exists:

5 (A) the actor knows or has reason to know that the victim is mentally
6 impaired, mentally incapacitated, or physically helpless; or

7 (B) the actor uses force or coercion to accomplish the sexual penetration.

8 (5) the actor is armed with a weapon or any article used or fashioned in a
9 manner to lead the victim to reasonably believe it to be a weapon;

10 (6) the actor causes personal injury to the victim and force or coercion is
11 used to accomplish sexual penetration; and

12 (7) the actor causes personal injury to the victim, and the actor knows or has
13 reason to know that the victim is mentally impaired, mentally incapacitated, or
14 physically helpless.

15 (b) Criminal sexual conduct in the first degree is a felony in the first degree. Any
16 person convicted of criminal sexual conduct under § 25.15(a) shall be sentenced to
17 a minimum of fifteen (15) years imprisonment, and may be sentenced to a maximum
18 of life imprisonment without the possibility of parole if the victim is twelve (12)
19 years of age or older at the time that the crime was committed; or a minimum of
20 twenty-five (25) years imprisonment, and may be sentenced to a maximum of life
21 imprisonment without the possibility of parole if the victim is under the age of twelve
22 (12) years old at the time that the crime was committed. The term imposed shall not
23 be suspended, as indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor
24 probation be imposed in lieu of said minimum term; nor shall work release or
25 educational programs outside the confines of prison be granted; nor shall the
26 provisions under § 80.31 of Article 2, Chapter 80, Title 9 GCA apply. Any such
27 sentence shall include a special parole term of not less than life with mandatory

1 lifetime monitoring by the Parole Office, in addition to such time of imprisonment

2 (c) Any person convicted of criminal sexual conduct under § 25.15(a)
3 subsequent to a first conviction of criminal sexual conduct under Guam law or a
4 conviction of a sex offense from another jurisdiction that has an element that would
5 constitute sexual contact or sexual penetration, as defined in § 25.10 of this Chapter
6 shall be sentenced to a minimum of twenty-five (25) years imprisonment and may
7 be sentenced to life imprisonment without the possibility of parole. Said term shall
8 not be suspended as indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor
9 shall parole, work release or educational programs outside the confines of prison be
10 granted.

11 **§ 25.20. Second Degree Criminal Sexual Conduct.**

12 (a) A person is guilty of criminal sexual conduct in the second degree if the
13 person engages in sexual contact with another person and if any of the following
14 circumstances exists:

15 (1) that other person is under fourteen (14) years of age;

16 (2) the victim is at least fourteen (14) but less than sixteen (16) years of age
17 and any of the following circumstances exist:

18 (A) the actor is a member of the same household as the victim;

19 (B) the actor is related to the victim by blood, adoption or affinity to the
20 fourth degree to the victim; or

21 (C) the actor is in a position of authority over the victim and used this
22 authority to coerce the victim to submit;

23 (D) the actor is a teacher, substitute teacher, intern/student teacher or
24 administrator of the public school, nonpublic school, school district, in which
25 that other person is enrolled;

26 (E) the actor is an employee or a contractual service provider of the
27 public school, nonpublic school, school district, in which that other person

1 is enrolled, or is a volunteer who is not a student in any public school or
2 nonpublic school, or is an employee of the government of Guam or
3 government of the United States assigned to provide any service to that
4 public school, nonpublic school, school district, and the actor uses his or her
5 employee, contractual, or volunteer status to gain access to, or to establish a
6 relationship with, that other person;

7 (F) the actor is an employee, contractual service provider, or volunteer
8 of a child care facility, or a person licensed or lawfully authorized to operate
9 a foster care facility or home or a foster care group home in which that other
10 person is a resident, and the sexual penetration occurs during the period of
11 that other person's residency;

12 (G) the actor is an employee, contractual service provider, or volunteer
13 of a social services organization, victims' advocacy organization, youth
14 correctional or detention facility, drug treatment facility or medical,
15 psychiatric or psychological treatment facility and the sexual penetration
16 occurs during the period of that other person's residency; or

17 (H) the actor is in a dating relationship with a member of the victim's
18 household.

19 (3) sexual contact occurs under circumstances involving the commission of
20 any other felony;

21 (4) the actor is aided or abetted by one or more other persons and either of
22 the following circumstances exists:

23 (A) the actor knows or has reason to know that the victim is mentally
24 impaired, mentally incapacitated, or physically helpless; or

25 (B) the actor uses force or coercion to accomplish the sexual contact.

26 (5) the actor is armed with a weapon or any article used or fashioned in
27 a manner to lead a person to reasonably believe it to be a weapon;

1 (6) the actor causes personal injury to the victim and force or coercion is
2 used to accomplish the sexual contact; and

3 (7) the actor causes personal injury to the victim and the actor knows or has
4 reason to know that the victim is mentally impaired, mentally incapacitated, or
5 physically helpless.

6 (b) Criminal sexual conduct in the second degree is a felony in the first degree.
7 Any person convicted of criminal sexual conduct under § 25.20(a) shall be sentenced
8 to a minimum of five (5) years to a maximum of fifteen (15) years imprisonment
9 without the possibility of parole if the victim is twelve (12) years of age or older at
10 the time that the crime was committed; or a minimum of ten (10) years to a maximum
11 of twenty (20) years imprisonment if the victim is under the age of twelve (12) years
12 old at the time that the crime was committed. The term imposed shall not be
13 suspended, as indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor
14 probation be imposed in lieu of said minimum term; nor shall work release or
15 educational programs outside the confines of prison be granted; nor shall parole be
16 granted; nor shall the provisions under § 80.31 of Article 2, Chapter 80, Title 9 GCA
17 apply. Any such sentence shall include a special parole term of not less than life with
18 mandatory lifetime monitoring by the Parole Office, in addition to such time of
19 imprisonment.

20 (c) Any person convicted of criminal sexual conduct under § 25.20(a)
21 subsequent to a first conviction of criminal sexual conduct under Guam law or a
22 conviction of a sex offense from another jurisdiction that has an element that would
23 constitute sexual contact or sexual penetration as defined in § 25.10 shall be
24 sentenced to a minimum of fifteen (15) years imprisonment and may be sentenced
25 to life imprisonment without the possibility of parole. Said term shall not be
26 suspended; nor probation be imposed in lieu of said term, as indicated in § 80.60 of
27 Article 4, Chapter 80, Title 9 GCA; nor shall parole, work release or educational

1 programs outside the confines of prison be granted.”

2 **§ 25.25. Third Degree Criminal Sexual Conduct.**

3 (a) A person is guilty of criminal sexual conduct in the third degree if the person
4 engages in sexual penetration with another person and if any of the following
5 circumstances exists:

6 (1) that other person is at least fourteen (14) years of age and under sixteen
7 (16) years of age;

8 (2) force or coercion is used to accomplish the sexual penetration; and

9 (3) the actor knows or has reason to know that the victim is mentally
10 impaired, mentally incapacitated, or physically helpless.

11 (b) Criminal sexual conduct in the third degree is a felony of the second degree.

12 (c) Any person previously convicted of criminal sexual conduct under § 25.25(a)
13 subsequent to a first conviction of criminal sexual conduct under Guam law or a
14 conviction of a sex offense from another jurisdiction that has an element that would
15 constitute sexual contact or sexual penetration as defined in § 25.10 of this Chapter
16 shall be sentenced to ten (10) years imprisonment without the possibility of parole.
17 Said term shall not be suspended; nor probation be imposed in lieu of said term, as
18 indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor shall parole, work
19 release or educational programs outside the confines of prison be granted.

20 (d) Close-in-Age Mitigation.

21 Notwithstanding subsection (c), if the victim is fourteen (14) or fifteen (15) and
22 the offender was not more than (4) years older than the victim, and the act was
23 consensual as defined in § 25.10(a)(2) the offense shall remain a felony of the second
24 degree, and the offender shall not be required to register under the Sex Offender
25 Registration and Notification Act pursuant to § 89.01(d)(8).

26 (e) Any person previously convicted of criminal sexual conduct under § 25.25(a)
27 subsequent to a first conviction of criminal sexual conduct under Guam law or a

1 conviction of a sex offense from another jurisdiction that has an element that would
2 constitute sexual contact or sexual penetration as defined in § 25.10 of this Chapter
3 shall be sentenced to ten (10) years imprisonment without the possibility of parole.
4 Said term shall not be suspended; nor probation be imposed in lieu of said term, as
5 indicated in § 80.60 of Article 4, Chapter 80, Title 9 GCA; nor shall parole, work
6 release or educational programs outside the confines of prison be granted.

7 **§ 25.30. Fourth Degree Criminal Sexual Conduct.**

8 (a) A person is guilty of criminal sexual conduct in the fourth degree if he or she
9 engages in sexual contact with another person and if any of the following
10 circumstances exists:

11 (1) force or coercion is used to accomplish the sexual contact;

12 (2) the actor knows or has reason to know that the victim is mentally
13 impaired, mentally incapacitated, or physically helpless;

14 (3) the victim is at least fourteen (14) years of age and under sixteen (16)
15 years of age.

16 (b) Criminal sexual conduct in the fourth degree is a felony of the third degree,
17 except, where the actor is a first time offender and the victim is eighteen (18) years
18 of age or older, it shall be a misdemeanor.

19 **§ 25.35. Assault with Intent to Commit Criminal Sexual Conduct.**

20 Assault with intent to commit criminal sexual conduct involving penetration is
21 a felony in a third degree.

22 **§ 25.40. Victim's Testimony Need Not be Corroborated.**

23 The testimony of a victim need not be corroborated in prosecutions under §§
24 25.15 through 25.35.

25 **§ 25.45. Resistance Not Required.**

26 A victim need not resist the actor for a proper prosecution under §§ 25.15
27 through 25.35.

1 **§ 25.50. Interfering with the Reporting of Criminal Sexual Conduct.**

2 (a) Any person commits the crime of interfering with the reporting of criminal
3 sexual conduct if the person:

4 (1) commits any act of criminal sexual conduct or assists in or ~~abets~~abets
5 any act of criminal sexual conduct, as enumerated in this Chapter and

6 (2) intentionally, knowingly, or recklessly prevents or attempts, either
7 directly or through other persons, to prevent the victim of or a witness to that act
8 of criminal ~~sexual~~sexual conduct from calling a 911 emergency communication
9 system, obtaining medical assistance, or making a report to any law enforcement
10 officer or other official.

11 (b) Commission of, or assisting in or ~~abetting~~abetting, a crime of criminal
12 sexual conduct under this chapter is a necessary element of the crime of interfering
13 with the reporting of criminal sexual conduct.

14 (c) Interference with the reporting of crimes of criminal sexual conduct is a
15 felony of the third degree.

16 **Section 12. Chapter 25A, Title 9, Guam Code Annotated, is hereby**
17 ***repealed and reenacted in its entirety as follows:***

18 **CHAPTER 25A**

19 **SOLICITATION OF CHILDREN AND CHILD PORNOGRAPHY**

20 **ARTICLE 1**

21 **ELECTRONIC DISPLAY AND ENTICEMENT**

22 **§ 25A101. Legislative Findings and Intent.**

23 I Liheslaturan Guåhan finds that there is a critical need to clearly and explicitly
24 define material that is obscene, material that is pornographic for minors and child
25 pornography, as well as to update Guam’s laws to protect children from internet
26 predators. The internet is arguably the most important learning tool of the Twenty-
27 first (21st) Century. Unfortunately, the same internet also poses one of the greatest

1 threats to child safety.

2 It is the intent of I Liheslatura to ensure that our laws are strong enough to
3 adequately protect Guam's children from online predators and child pornography
4 and to severely punish the offenders.

5 **§ 25A102. Indecent Electronic Display to a Child.**

6 (a) Any person who intentionally masturbates or intentionally exposes the
7 genitals of him or herself, or of another, in a lewd or lascivious manner live over a
8 computer online service, internet service, or local bulletin board service, and who
9 knows or should know or has reason to believe that the transmission is viewed on a
10 computer or other device capable of electronic data storage or transmission, by:

- 11 (1) a minor known by the person to be under the age of eighteen (18) years;
12 (2) another person, in reckless disregard of the risk that the other person is
13 under the age of eighteen (18) years, and the other person is under the age of
14 eighteen (18) years; or

15 (3) another person who represents him or herself to be under the age of
16 eighteen (18) years is guilty of indecent electronic display to a child.

17 (b) Indecent electronic display to a child is a Third Degree Felony.

18 ~~(c) It shall not constitute a defense against any charge or violation of this Section~~
19 ~~that a law enforcement officer, peace officer, or other person working at the direction~~
20 ~~of law enforcement was involved in the detection or investigation of a violation of~~
21 ~~this Section.~~

22 **§ 25A103. Electronic Enticement of a Child as a Third Degree Felony.**

23 (a) Any person who, using a computer online service, internet service, or any
24 other device capable of electronic data storage or transmission to solicit, lure, or
25 entice, or attempt to solicit, lure, or entice:

- 26 (1) intentionally or knowingly communicates:

1 (A) with a minor known by the person to be under the age of eighteen
2 (18) years;

3 ~~(B) with another person, in reckless disregard of the risk that the other~~
4 ~~person is under the age of eighteen (18) years, and the other person is under~~
5 ~~the age of eighteen (18) years; or~~

6 ~~(C)~~ with another person who represents him or herself to be under the
7 age of eighteen (18) years,

8 (2) with the intent to promote or facilitate the commission of an unlawful
9 sexual act or sexual offense in violation of Guam law, or another criminal
10 offense as set forth in Title 9 GCA Chapter 89, § 89.01, is guilty of electronic
11 enticement of a child as a Third Degree Felony.

12 (b) Electronic enticement of a child under this Section is a Third Degree Felony.

13 (c) Each separate use of a computer online service, internet service, or any other
14 device capable of electronic data storage or transmission wherein an offense
15 described in this Section is committed may be charged as a separate offense.

16 ~~(d) It shall not constitute a defense against any charge or violation of this Section~~
17 ~~that a law enforcement officer, peace officer, or other person working at the direction~~
18 ~~of law enforcement was involved in the detection or investigation of a violation of~~
19 ~~this Section.~~

20 **§ 25A104. Electronic Enticement of a Child as a Second Degree Felony.**

21 (a) Any person who, using a computer online service, internet service, or any
22 other device capable of electronic data storage or transmission:

23 (1) intentionally or knowingly communicates:

24 (A) with a minor known by the person to be under the age of eighteen
25 (18) years;

26 ~~(B) with another person, in reckless disregard of the risk that the other~~
27 ~~person is under the age of eighteen (18) years, and the other person is under~~

1 ~~the age of eighteen (18) years; or~~

2 (~~€B~~) with another person who represents him or herself to be under the
3 age of eighteen (18) years,

4 (2) with the intent to promote or facilitate the commission of a felony, or
5 another criminal offense as set forth in Title 9 GCA Chapter 89, § 89.01, agrees
6 to meet with the minor, or with another person who represents him or herself to
7 be a minor under the age of eighteen (18) years; and

8 (3) intentionally or knowingly travels to the agreed upon meeting place at
9 the agreed upon meeting time, is guilty of electronic enticement of a child as a
10 Second Degree Felony.

11 (b) Electronic enticement of a child under this Section is a Second Degree
12 Felony.

13 **§ 25A105. Electronic Enticement of a Child as a First Degree Felony.**

14 (a) Any person who, using a computer online service, internet service, or any
15 other device capable of electronic data storage or transmission:

16 (1) intentionally or knowingly communicates:

17 (A) with a minor known by the person to be under the age of eighteen
18 (18) years;

19 ~~(B) with another person, in reckless disregard of the risk that the other
20 person is under the age of eighteen (18) years, and the other person is under
21 the age of eighteen (18) years; or~~

22 (~~€B~~) with another person who represents him or herself to be under the
23 age of eighteen (18) years,

24 (2) with the intent to promote or facilitate the commission of a felony:

25 (A) that is murder or aggravated murder as defined in Title 9 GCA
26 Chapter 16;

27 (B) that is a first degree felony; or

1 (C) that is another criminal offense as set forth in Title 9 GCA Chapter
2 89, § 89.01, agrees to meet with the minor, or with another person who
3 represents him or herself to be a minor under the age of eighteen (18) years;
4 and

5 (3) intentionally or knowingly travels to the agreed upon meeting place at
6 the agreed upon meeting time, is guilty of electronic enticement of a child as a
7 First Degree Felony.

8 (b) Electronic enticement of a child under this Section is a First Degree Felony.

9 **§ 25A106. Electronic Enticement; No Defense.**

10 It shall not constitute a defense against any charge or violation of this Section
11 that a law enforcement officer, peace officer, or other person working at the direction
12 of law enforcement was involved in the detection or investigation of a violation of
13 this Chapter.

14 **ARTICLE 2**

15 **CHILD PORNOGRAPHY**

16 **§ 25A201. Definitions.**

17 As used in this Chapter:

18 (a) Child pornography means any pornographic visual representation,
19 including any photograph, film, video, picture, or computer or computer-
20 generated image or picture, whether made or produced by electronic,
21 mechanical, or other means, of sexual conduct, if:

22 (1) the pornographic production of the visual representation involves the
23 use of a minor engaging in sexual conduct; or

24 (2) the pornographic visual representation has been created, adapted, or
25 modified to appear that an identifiable minor is engaging in sexual conduct.

26 (b) Community standards means the standards of Guam.

27 (c) Computer means any electronic, magnetic, optical, electrochemical, or

1 other high-speed data processing device performing logical, arithmetic, or
2 storage functions, and includes, all computer equipment connected or related to
3 such a device in a computer system or computer network, but shall not include
4 an automated typewriter or typesetter, a portable hand-held calculator, or other
5 similar device.

6 (d) Computer equipment means any equipment or devices, including all
7 input, output, processing, storage, software, or communications facilities,
8 intended to interface with the computer.

9 (e) Computer network means two (2) or more computers or computer
10 systems, interconnected by communication lines, including microwave,
11 electronic, or any other form of communication.

12 (f) Computer program or software means a set of computer-readable
13 instructions or statements and related data that, when executed by a computer
14 system, causes the computer system or the computer network to which it is
15 connected to perform computer services.

16 (g) Computer services includes, but is not limited to the use of a computer
17 system, computer network, computer program, data prepared for computer use,
18 and data contained within a computer system or computer network.

19 (h) Computer system means a set of interconnected computer equipment
20 intended to operate as a cohesive system.

21 (i) Data means information, facts, concepts, software, or instructions
22 prepared for use in a computer, computer system, or computer network.

23 (j) Lascivious means tending to incite lust to deprave the morals with respect
24 to sexual relations, or to produce voluptuous or lewd emotions in the average
25 person, applying contemporary community standards.

26 (k) Material means any printed matter, visual representation, or sound
27 recording and includes, but is not limited to, books, magazines, motion picture

1 films, pamphlets, newspapers, pictures, photographs, and tape or wire
2 recordings.

3 (l) Minor means any person less than eighteen (18) years old.

4 (m) Pornographic shall have the same meaning as in Title 9 GCA Chapter
5 28, Article 2.

6 (n) Sadomasochistic abuse means flagellation or torture by or upon a person
7 as an act of sexual stimulation or gratification.

8 (o) Sexual conduct means acts of sexual penetration, sexual contact,
9 masturbation, bestiality, sexual penetration, deviate sexual intercourse,
10 sadomasochistic abuse, or lascivious exhibition of the genital or pubic area of a
11 minor.

12 (p) Visual representation includes, but is not limited to, undeveloped film
13 and videotape and data stored on computer disk or by electronic means that are
14 capable of conversion into a visual image.

15 (q) Disseminate means to publish, sell, distribute, transmit, exhibit, present
16 material, mail, ship, or transport by any means, including by computer, or to
17 offer or agree to do the same.

18 **§ 25A202. Possession of Child Pornography.**

19 (a) A person commits the offense of possession of child pornography if, knowing
20 or having reason to know its character and content, the person possesses:

21 (1) child pornography;

22 (2) any book, magazine, periodical, film, videotape, computer disk,
23 electronically stored data, or any other material that contains an image of child
24 pornography; or

25 (3) any pornographic material that employs, uses, or otherwise contains a
26 minor engaging in or assisting others to engage in sexual conduct.

1 (b) The fact that a person engaged in the conduct specified by this Section is
2 prima facie evidence that the defendant had knowledge of the character and content
3 of the material. The fact that the person who was employed, used, or otherwise
4 contained in the pornographic material was, at that time, a minor is prima facie
5 evidence that the defendant knew the person to be a minor.

6 (c) Possession of child pornography under this Section is a Second Degree
7 Felony.

8 **§ 25A203. Dissemination of Child Pornography.**

9 (a) A person commits the offense of dissemination of child pornography if,
10 knowing or having reason to know its character and content, the person:

11 (1) disseminates child pornography;

12 (2) reproduces child pornography with intent to disseminate;

13 (3) disseminates any book, magazine, periodical, film, videotape, computer
14 disk, electronically stored data, or any other material that contains an image of
15 child pornography;

16 (4) disseminates any pornographic material that employs, uses, or otherwise
17 contains a minor engaging in or assisting others to engage in sexual conduct; or

18 (5) possesses ten (10) or more images of any form of child pornography
19 regardless of content, and the content of at least one (1) image contains one (1)
20 or more of the following:

21 (A) a minor who is younger than the age of fourteen (14);

22 (B) sadomasochistic abuse of a minor;

23 (C) sexual penetration of a minor; or

24 (D) bestiality involving a minor.

25 (b) The fact that a person engaged in the conduct specified by this Section is
26 prima facie evidence that the defendant had knowledge of the character and content
27 of the material. The fact that the person who was employed, used, or otherwise

1 contained in the pornographic material was, at that time, a minor is prima facie
2 evidence that the defendant knew the person to be a minor.

3 (c) Dissemination of child pornography under this Section is a First Degree
4 Felony.

5 **§ 25A204. Production of Child Pornography.**

6 (a) A person commits the offense of production of child pornography if, knowing
7 or having reason to know its character and content, the person produces,
8 manufactures, reproduces, copies, photographs, films, videotapes, video captures,
9 creates, directs, promotes, advertises, publishes, issues, or presents to show any
10 visual depiction of child pornography as defined in § 25A201 of this Chapter, or any
11 pornographic material where:

12 (1) the production of such visual depiction involves the use of a minor
13 engaging in sexual conduct;

14 (2) such visual depiction is a digital image, computer image, or computer-
15 generated image that is, or is indistinguishable from, that of a minor engaging in
16 sexual conduct;

17 (3) such visual depiction has been created, adapted, or modified to appear
18 that an identifiable minor is engaging in sexual conduct;

19 (4) there is visual material containing the lewd or lascivious display of a
20 minor's intimate area underneath clothing or sexual conduct of a minor; or

21 (5) there is visual material containing the display of a minor's intimate area
22 underneath clothing that is prohibited under 9 GCA § 70.35.

23 (b) The fact that a person engaged in the conduct specified by this Section is
24 prima facie evidence that the defendant had knowledge of the character and content
25 of the material. The fact that the person who was employed, used, or otherwise
26 contained in the pornographic material was, at that time, a minor is prima facie
27 evidence that the defendant knew the person to be a minor.

1 (c) Production of child pornography is a First Degree Felony.

2 **Section 13. Chapter 31, Title 9, Guam Code Annotated, is hereby *repealed***
3 ***and reenacted in its entirety as follows:***

4 **CHAPTER 31**

5 **OFFENSES AGAINST THE FAMILY**

6 **§ 31.10. Bigamy; Defined & Punished.**

7 (a) A married person is guilty of *bigamy*, a misdemeanor, if he contracts or
8 purports to contract another marriage, unless at the time of the subsequent marriage:

9 (1) the defendant believes that the prior spouse is dead;

10 (2) the defendant and the prior spouse have been living apart for five (5)
11 consecutive years throughout which the prior spouse was not known by the
12 defendant to be alive;

13 (3) a court has entered a judgment purporting to terminate or annul any prior
14 disqualifying marriage, and the defendant does not know that judgment to be
15 invalid; or

16 (4) the defendant reasonably believes that he is legally eligible to remarry.

17 (b) A person is guilty of bigamy if he contracts or purports to contract marriage
18 with another knowing that the other is thereby committing bigamy.

19 **§ 31.15. Incest: Defined & Punished.**

20 A person is guilty of *incest*, a misdemeanor, if he knowingly marries or cohabits
21 or has sexual intercourse with an ancestor or descendant, a brother or sister of the
22 whole or half blood or an uncle, aunt, nephew or niece of the whole blood. Cohabit
23 means to live together under the representation or appearance of being married. The
24 relationships referred to herein include blood relationships without regard to
25 legitimacy, and relationship of parent and child by adoption.

26 **§ 31.20. Abortion.**

1 (a) *Abortion* means the termination of a human pregnancy with an intention other
2 than to produce a live birth or to remove a dead fetus.

3 (b) An *abortion* may be performed:

4 (1) by a physician licensed to practice medicine this Territory or by a
5 physician practicing medicine in the employ of the government of the United
6 States;

7 (2) in the physician's adequately equipped medical clinic or in a hospital
8 approved or operated by the United States or this Territory; and

9 (3) (A) within 13 weeks after the commencement of the pregnancy; or

10 (B) within 26 weeks after the commencement of the pregnancy if the
11 physician has reasonably determined using all available means:

12 (i) that the child would be born with a grave physical or mental
13 defect; or

14 (ii) that the pregnancy resulted from rape or incest; or

15 (C) at any time after the commencement of pregnancy if the physician
16 reasonably determines using all available means that there is a substantial
17 risk that continuance of the pregnancy would endanger the life of the mother
18 or would gravely impair the physical or mental health of the mother.

19 **§ 31.21 Illegal Abortions Punished.**

20 Any person performing an abortion in circumstances other than permitted by §
21 31.20 shall be guilty of a third degree felony.

22 **§ 31.22 Refusal to Participate in Abortion.**

23 (a) (1) No employer or other person shall require a physician, a registered nurse,
24 a licensed vocational nurse, or any person employed or with staff privileges at a
25 hospital, facility or clinic to directly participate in the induction or performance
26 of an abortion, if such employee or other person has filed a written statement

1 with the employer or the hospital, facility or clinic indicating a moral, ethical or
2 religious basis for refusal to participate in the abortion.

3 (2) No such employee or other person with staff privileges in a hospital,
4 facility, or clinic shall be subject to any penalty or discipline by reason of his
5 refusal to participate in an abortion. No such employee of a hospital, facility or
6 clinic which does not permit the performance of abortions, or person with staff
7 privileges therein, shall be subject to any penalty or discipline on account of such
8 person's participation in the performance of an abortion in other than such
9 hospital, facility or clinic.

10 (3) No employer shall refuse to employ any person because of such person's
11 refusal for moral, ethical or religious reasons to participate in an abortion, unless
12 such person would be assigned in the normal course of business of any hospital,
13 facility or clinic to work in those parts of the hospital, facility or clinic where
14 abortion patients are cared for. No provision of this Chapter prohibits any
15 hospital, facility or clinic which permits the performance of abortions from
16 inquiring whether the employee or prospective employee would advance a
17 moral, ethical or religious basis for refusal to participate in an abortion before
18 hiring or assigning such a person to that part of a hospital, facility or clinic where
19 abortion patients are cared for.

20 (4) The refusal of a physician, nurse, or any other person to participate or aid
21 in the induction or performance of an abortion pursuant to this subsection shall
22 not form the basis of any claim for damages.

23 (b) No hospital, facility, or clinic shall refuse staff privileges to a physician
24 because of such physician's refusal to participate in the performance of an abortion
25 for moral, ethical, or religious reasons.

26 (c) (1) Nothing in this Chapter shall require a non-profit hospital or other facility
27 or clinic which is operated by a religious corporation or other religious

1 organization or any administrative officer, employee, agent, or member of the
2 governing board thereof, to perform or permit the performance of an abortion in
3 such facility or clinic or to provide abortion services. No such non-profit facility
4 or clinic organized or operated by a religious corporation or other religious
5 organization, nor its administrative officers, employees, agents, or members of
6 its governing board shall be liable, individually or collectively, for failure or
7 refusal to participate in any such act.

8 (2) The failure or refusal of any such corporation, unincorporated association
9 or individual person to perform or to permit the performance of such medical
10 procedures shall not be the basis for any disciplinary or other recriminatory
11 action against such corporations, unincorporated associations, or individuals.
12 Any such facility or clinic which does not permit the performance of abortions
13 on its premises shall post notice of such proscription in an area of such facility
14 or clinic which is open to patients and prospective admittees.

15 (d) (1) This section shall not apply to medical emergency situations and
16 spontaneous abortions.

17 (2) Any violation of this section is a misdemeanor.

18 **§ 31.30. Child Abuse; Defined & Punished.**

19 (a) A person is guilty of child abuse when:

20 (1) he subjects a child to cruel mistreatment; or

21 (2) inflicts upon a child unjustifiable physical pain or mental suffering; or

22 ~~(2)~~(3) having a child in his care or custody or under his control, he:

23 (A) deserts that child with intent to abandon him; or

24 ~~(B) subjects that child to cruel mistreatment; or~~

25 ~~(C)~~(B) unreasonably causes or permits the physical or, emotional health
26 of that child to be endangered or unreasonably causes or permits that child
27 to be placed in a situation where his or her person or health may be

1 endangered; or

2 (C) neglects that child.

3 (b) Child abuse is a felony of the third degree when it is committed under
4 circumstances likely to result in death or serious bodily injury. Otherwise, it is a
5 misdemeanor.

6 (c) Voluntary surrender of physical custody of a newborn infant by a mother to
7 authorized Safe Haven personnel pursuant to the provisions of the Newborn Infant
8 Safe Haven Act, 19 GCA, Chapter 13, Article 5, is an absolute defense to
9 prosecution for child abuse as a result of deserting that child with intent to abandon
10 that child under Subsection (a)(2)(A) of this Section.

11 (d) As used in this Section, neglect of a child shall consist of any of the following
12 acts by anyone having the custody or control of the child:

13 (1) intentionally failing to provide proper and sufficient food, clothing,
14 maintenance, regular school education as required by law, medical attendance or
15 surgical treatment, and a clean and proper home; or

16 (2) failure to do or permit to be done any act necessary for the child's
17 physical or moral well-being.

18 ~~§ 31.35. Reporting of Suspected Child Abuse to Department of Public Health~~
19 ~~and Social Services.~~

20 ~~{Repealed by P.L. 14-137 (1978)}~~

21 ~~§ 31.37. Registry of Cases of Suspected Child Abuse Reported to Department~~
22 ~~of Public Health and Social Services.~~

23 ~~{Repealed by P.L. 14-137 (1987)}~~

24 **§ 31.40. Abuse of An Incompetent; Defined & Punished.**

25 (a) A person is guilty of *abuse of an incompetent* when:

26 (1) he subjects an incompetent to cruel mistreatment; or

27 (2) having an incompetent in his care of custody or under his control, he:

- 1 (A) deserts that incompetent with intent to abandon him;
- 2 (B) subjects that incompetent to cruel mistreatment; or
- 3 (C) unreasonably causes or permits the physical or emotional health of
- 4 that incompetent to be endangered.

5 (b) As used in this Section, *incompetent* means a person who is unable to care
6 for himself because of old age, or because of physical or mental illness, disease or
7 defect.

8 (c) *Abuse of an incompetent* is a felony of the third degree when it is committed
9 under circumstances likely to result in death or serious bodily injury. Otherwise, it
10 is a misdemeanor.

11 **§ 31.45. Failure to Provide; Defined & Punished.**

12 (a) A person is guilty of *failure to provide* when having a spouse, child or
13 indigent parent whom he is legally obliged to support, he knowingly fails to furnish
14 that person with necessary support.

15 (b) As used in this Section, support includes food, clothing, shelter, medical
16 attention and education.

17 (c) As used in this Section, child includes a child conceived but not yet born.

18 **§ 31.50. Surety for Support.**

19 (a) If at any time before sentencing under any prosecution pursuant to § 31.45,
20 the defendant appears before the court and enters into any undertaking with
21 sufficient sureties in such penal sum as the court may fix, to be approved by the
22 court, and conditioned that the defendant will pay to the person having custody of
23 such spouse, child or parent, such sum per month as may be fixed by the court to
24 provide necessary food, clothing, shelter or medical attendance or other remedial
25 care, then the court may suspend proceedings or sentence therein.

1 (b) The undertaking provided pursuant to Subsection (a) shall be valid and
2 binding for one (1) year, or such lesser time as the court shall fix.

3 (c) Upon the failure of the defendant to comply with the undertaking, he may be
4 ordered to appear before the court and show cause why further proceedings should
5 not be had in the action or why sentence should not be imposed, whereupon the court
6 may proceed with the action, or pass sentence or for good cause shown may modify
7 the order and take a new undertaking and further suspend proceedings or sentence
8 for a like period.

9 **§ 31.55. Fine Imposed May be Used for Support.**

10 In any case where there is a conviction of an offense under § 31.45 and a sentence
11 to pay a fine, such fine may be directed by the court to be paid in whole or in part to
12 the spouse, child or parent or guardian or custodian of such person.

13 ~~§ 31.60. Criminal Spouse Abuse: Penalty.~~

14 ~~{Repealed by P.L. 22-160:3 (1994)}~~

15 ~~§ 31.65. Curfew Hours for Minors.~~

16 ~~(a) Definitions. As used in this Section:~~

17 ~~(1) *Curfew Hours* means:~~

18 ~~(A) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or~~
19 ~~Thursday until 6:00 a.m. of the following day; and~~

20 ~~(B) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.~~

21 ~~(2) *Emergency* means an unforeseen combination of circumstances or the~~
22 ~~resulting state that calls for immediate action. The term includes, *but is not*~~
23 ~~*limited to*, a fire, a natural disaster, an automobile accident, or any situation~~
24 ~~requiring immediate action to prevent serious bodily injury or loss of life.~~

25 ~~(3) *Establishment* means any privately owned place of business operated for~~
26 ~~a profit to which the public is invited, including, *but not limited to*, any place of~~
27 ~~amusement or entertainment.~~

1 ~~(4) *Guardian* means:~~

2 ~~(A) a person who, under court order, is the guardian of the person of a~~
3 ~~minor; or~~

4 ~~(B) a public or private agency with whom a minor has been placed by a~~
5 ~~court.~~

6 ~~(5) *Minor* means any person under seventeen (17) years of age.~~

7 ~~(6) *Operator* means any individual, firm, association, partnership, or~~
8 ~~corporation operating, managing, or conducting any establishment. The term~~
9 ~~includes the members or partners of an association or partnership and the~~
10 ~~officers of a corporation.~~

11 ~~(7) *Parent* means a person who is:~~

12 ~~(A) a natural parent, adoptive parent, or step-parent of another person;~~
13 ~~or~~

14 ~~(B) at least eighteen (18) years of age and authorized by a parent or~~
15 ~~guardian to have the care and custody of a minor.~~

16 ~~(8) *Public Place* means any place to which the public or a substantial group~~
17 ~~of the public has access and includes, but is not limited to, streets, highways, and~~
18 ~~the common areas of schools, hospitals, apartment houses, office buildings,~~
19 ~~transport facilities, and shops.~~

20 ~~(9) *Remain* means to:~~

21 ~~(A) linger or stay; or~~

22 ~~(B) fail to leave premises when requested to do so by a peace officer or~~
23 ~~the owner, operator, or other person in control of the premises.~~

24 ~~(10) — *Serious Bodily Injury* means bodily injury that creates a substantial~~
25 ~~risk of death or that causes death, serious permanent disfigurement, or protracted~~
26 ~~loss or impairment of the function of any bodily member or organ.~~

27 ~~(b) *Offenses*.~~

1 ~~(1) A minor commits an offense if he remains in any public place or on the~~
2 ~~premises of any establishment on Guam during curfew hours.~~

3 ~~(2) A parent or guardian of a minor commits an offense if he knowingly~~
4 ~~permits, or by insufficient control allows, the minor to remain in any public place~~
5 ~~or on the premises of any establishment on Guam during curfew hours.~~

6 ~~(3) The owner, operator, or any employee of an establishment commits an~~
7 ~~offense if he knowingly allows a minor to remain upon the premises of the~~
8 ~~establishment during curfew hours.~~

9 ~~(c) Defenses.~~

10 ~~(1) It is a defense to prosecution under Subsection (b) that the minor was:~~

11 ~~(A) accompanied by the minor's parent or guardian;~~

12 ~~(B) on an errand at the direction of the minor's parent or guardian,~~
13 ~~without any detour or stop;~~

14 ~~(C) engaged in an employment activity, or going to or returning home~~
15 ~~from an employment activity, without any detour or stop;~~

16 ~~(D) involved in an emergency;~~

17 ~~(E) on the sidewalk abutting the minor's residence or abutting the~~
18 ~~residence of a next door neighbor if the neighbor did not complain to the~~
19 ~~police department about the minor's presence;~~

20 ~~(F) attending or traveling to or returning home without detour from an~~
21 ~~official school, religious, or other recreational activity supervised by adults~~
22 ~~and sponsored by the government of Guam, a civic organization, or another~~
23 ~~similar entity that takes responsibility for the minor, or going to or returning~~
24 ~~home from, without any detour or stop, an official school, religious, or other~~
25 ~~recreational activity supervised by adults and sponsored by the government~~
26 ~~of Guam, a civic organization, or another similar entity that takes~~
27 ~~responsibility for the minor;~~

1 ~~(G) exercising First Amendment rights protected by the United States~~
2 ~~Constitution, such as the free exercise of religion, freedom of speech, and~~
3 ~~the right of assembly; or~~

4 ~~(H) married or had been married, enlisted in a branch of the United States~~
5 ~~Armed Forces or the National Guard or had disabilities of minority removed~~
6 ~~in accordance with Article 3 of Chapter 4 of Title 19 GCA.~~

7 ~~(2) It is a defense to prosecution under Subsection (b)(3) that the owner,~~
8 ~~operator, or employee of an establishment promptly notified the police~~
9 ~~department that a minor was present on the premises of the establishment during~~
10 ~~curfew hours and refused to leave.~~

11 ~~(d) Enforcement. Before taking any enforcement action under this Section, a~~
12 ~~police officer shall ask the apparent offender's age and reason for being in the public~~
13 ~~place. The officer shall not issue a citation, take into custody or make an arrest under~~
14 ~~this Section unless the officer reasonably believes that an offense has occurred and~~
15 ~~that, based on any response and other circumstances, no defense in Subsection (c) is~~
16 ~~present.~~

17 ~~(e) Penalties.~~

18 ~~(1) A person who violates a provision of this Chapter is guilty of a separate~~
19 ~~offense for each day or part of a day during which the violation is committed,~~
20 ~~continued, or permitted. Each offense, upon conviction, is punishable by a fine~~
21 ~~not to exceed Five Hundred Dollars (\$500).~~

22 ~~(2) When required by §5104 of Title 19 GCA, as amended, the Superior~~
23 ~~Court shall waive original jurisdiction over a minor who violates Subsection~~
24 ~~(b)(1) of this Section and shall refer the minor to juvenile court.~~

25 **§ 31.70. Leaving Children Unattended or Unsupervised in Motor Vehicles;**
26 **Penalty; Authority of Law Enforcement Officer.**

27 (a) A parent, legal guardian, or other person, at least twelve (12) years of age,

1 responsible for a child five (5) years of age or younger, may not leave such child
2 unattended or unsupervised in a motor vehicle:

3 (1) For a period in excess of fifteen (15) minutes; or

4 (2) For any period of time if the motor of the vehicle is running or the health
5 of the child is in danger.

6 (b) Any person who knowingly violates the provisions of Subsection (a)(1)
7 commits a petty misdemeanor.

8 (c) Any person who violates the provisions of Subsection (a)(2) is guilty of a
9 violation, punishable by a fine not less than Fifty Dollars (\$50) and not more than
10 Five Hundred Dollars (\$500).

11 (d) Any person who knowingly violates Subsection (a) and in so doing causes
12 serious bodily injury, permanent disability, or permanent disfigurement to a child
13 commits a felony of the third degree.

14 (e) Any law enforcement officer who observes a child left unattended or
15 unsupervised in a motor vehicle in violation of Subsection (a) may use whatever
16 means are reasonably necessary to protect the minor child and to remove the child
17 from the vehicle.

18 (1) If the child is removed from the immediate area, notification should be
19 placed on the vehicle.

20 (2) The child shall be remanded to the custody of the Child Protective
21 Services Division pursuant to Title 19 GCA, Chapter 13, unless the law
22 enforcement officer is able to locate the parents or legal guardian or other person
23 responsible for the child.

24 **Section 14. Chapter 34, Title 9, Guam Code Annotated, is hereby *repealed***
25 ***and reenacted in its entirety as follows:***

26 **CHAPTER 34**

27 **ARSON, NEGLIGENT BURNING, CRIMINAL MISCHIEF**

1 **§ 34.10. Definitions.**

2 As used in this Chapter:

3 (a) *Property* means any form of real property or tangible personal property
4 which is capable of being damaged or destroyed.

5 (b) *Habitable Property* means any structure, vehicle or vessel adapted for
6 the accommodation or occupation of persons.

7 (c) *Property* is that of another if anyone other than the defendant has a
8 possessory or proprietary interest in any portion thereof.

9 (d) *Forest land* means any brush covered land, cut-over land, forest,
10 grasslands, jungle, or woods.

11 **§ 34.20. Aggravated Arson; Defined & Punished.**

12 (a) A person is guilty of aggravated arson if he recklessly damages any habitable
13 property by means of fire or explosives in conscious disregard of a substantial risk
14 that at the time of such conduct a person may be in such habitable property, whether
15 or not a person is actually present.

16 (b) Aggravated arson is a second degree felony. In the case of aggravated arson
17 as a felony of the second degree, the court shall impose a sentence of imprisonment
18 of a minimum term of five (5) years and may impose a maximum term of up to ten
19 (10) years; the minimum term imposed shall not be suspended nor may probation be
20 imposed in lieu of the minimum term nor shall parole or work release be granted
21 before completion of the minimum term. The sentence shall include a special parole
22 term of not less than three (3) years in addition to such term of imprisonment.

23 **§ 34.30. Arson; Defined & Punished.**

24 (a) A person is guilty of *arson* if under circumstances not amounting to
25 aggravated arson he starts a fire or causes an explosion, whether on his own property,
26 another's property, or forest land:

27 (1) with the intention of defrauding an insurer; or

1 (2) in reckless disregard of a risk that his conduct will damage or destroy the
2 property of another; or

3 (3) in reckless disregard of a risk that his conduct will damage or destroy
4 forest land.

5 (b) Arson is a third degree felony.

6 **§ 34.40. Negligent Burning; Defined & Punished.**

7 (a) A person is guilty of *negligent burning* if he:

8 (1) negligently starts a fire or causes an explosion whether on his own
9 property, another's property, or forest land, and thereby negligently endangers
10 human life, or negligently places the property of another, or forest land, in danger
11 of damage or destruction; or

12 (2) having started a fire, whether negligently or not, and knowing that its
13 spread will endanger the life or property of another, or forest land, either fails to
14 take reasonable measures to put out or control the fire, or fails to give a prompt
15 fire alarm.

16 (b) Negligent burning is a misdemeanor. If a person guilty of negligent burning
17 is offered Alternative Service Restitution in accordance with Article 6 of Chapter
18 80, 9 GCA, the restoration of forest lands is an allowable form of restitution or
19 alternative community service.

20 **§ 34.50. Criminal Mischief; Defined.**

21 A person commits *criminal mischief* if:

22 ~~(a) under circumstances not amounting to arson he damages or destroys~~
23 ~~property with the intention of defrauding an insurer; or~~

24 ~~(b) he intentionally tampers with the property of another or forest land and~~
25 ~~thereby:~~

26 ~~(1) recklessly endangers human life; or~~

27 ~~(2) recklessly causes or threatens a substantial interruption or impairment of~~

1 any public utility service; or

2 (e) he intentionally damages the property of another. ~~or forest land; or~~

3 (d) he intentionally damages the motor vehicle of another.

4 **§ 34.60. Criminal Mischief; Punished.**

5 ~~(a) A violation of subsections (b) or (d) of § 34.50 is a third degree felony.~~

6 ~~(ba)~~ (b) A violation of ~~subsection (a) of § 34.50~~ is a second degree felony if the
7 defendant's conduct results in pecuniary loss of Five Thousand Dollars (\$5,000.00)
8 or more, a third degree felony if the defendant's conduct ~~causes or is intended to~~
9 ~~cause~~ results in pecuniary loss of Two Thousand Five Hundred Dollars (\$2,500.00)
10 or more, but less than Five Thousand Dollars (\$5,000.00) in excess of Five Hundred
11 Dollars (\$500.00), a misdemeanor if the defendant's conduct ~~causes or is intended to~~
12 ~~cause~~ results in pecuniary loss of Five Hundred Dollars (\$500) or more but less than
13 Two Thousand Five Hundred Dollars (\$500.00) in excess of Fifty Dollars (\$50.00),
14 and a petty misdemeanor if the defendant's conduct ~~causes or is intended to cause~~
15 results in pecuniary loss of less than Five Hundred Dollars (\$500.00). in excess of
16 Twenty four Dollars (\$24.00). ~~Otherwise, criminal mischief is a violation.~~

17 ~~(e) Any adult convicted under subsection (e) of § 34.50, Title 9, Guam Code~~
18 ~~Annotated, is guilty of a misdemeanor punishable by imprisonment for not less than~~
19 ~~a mandatory forty eight (48) hours nor more than one year and a fine of two hundred~~
20 ~~fifty dollars (\$250.00) for the first offense, five hundred dollars (\$500.00) for the~~
21 ~~second offense and one thousand dollars (\$1000.00) for each subsequent offense.~~

22 (b) In the case of a minor, the parents or the legal guardian shall be jointly and
23 severally liable with the minor for the payment of all fines. Failure of the parents or
24 legal guardian to make payment will result in the filing of a lien on the parents' or
25 legal guardian's property to include the fine and court costs. Upon an application and
26 finding of indigence, the court may decline to order fines against the minor or
27 parents.

1 In addition to any punishment listed in subsection (ea), the court shall order any
2 violator to make restitution to the victim for damages or loss caused directly or
3 indirectly by the defendant's offense in the amount or manner determined by the
4 court. Furthermore, the person or if a minor, his or her parents, shall re-paint or
5 refurbish the property so damaged, destroyed, removed, or defaced at such person's
6 expense, under the supervision of the affected property owner or a court
7 representative. The person shall also perform a minimum of one hundred eighty
8 (180) hours but not to exceed three hundred sixty (360) hours of community service.
9 Parents or legal guardians of any minor found to have violated this subsection shall
10 also be responsible for providing supervision as well as paying for the fine if the
11 minor is unable to do so.

12 (~~dc~~) The court may order that any person punished under ~~§ 34.60(e) or § 34.70,~~
13 ~~Title 9, Guam Code Annotated~~ this section, who is to be punished by imprisonment,
14 shall be confined on days other than days of regular employment of the person, or
15 on days other than school days if the defendant is a minor, as determined by the
16 court.

17 **§ 34.70. Graffiti Prohibited.**

18 (a) Definitions. For the purpose of this section, the following terms apply:

19 (1) Broad-tipped indelible marker means any felt tip marker, or similar
20 implement, which contains a fluid which is not water soluble and which has a
21 flat or angled writing surface one-half inch or greater.

22 (2) Bona fide evidence of majority means a document issued by a federal,
23 state, county or municipal government or agency thereof, including but not
24 limited to, a motor vehicle operator's license, or registration certificate issued
25 under the Federal Selective Service Act, a passport, or an identification card
26 issued to a member of the armed forces which identifies an individual and
27 provides proof of the age of such individual.

1 (3) Owner means any and all persons with legal and/or equitable title to real
2 property in Guam as their names and addresses are shown upon the records of
3 the Department of Revenue of Taxation or the Department of Land Management.

4 (4) Supervising Adult means an individual eighteen (18) years of age or older
5 who has been given responsibility by the minor's parents, legal guardian, or other
6 lawful authority to supervise the minor.

7 (5) Used or intended to be used includes usage in the course of a violation or
8 usage to transport a violator to or from the scene of a violation.

9 (b) No person shall write, paint or draw any inscription, figure, or mark of any
10 type on any public or private building or structure or other real or personal property
11 owned, operated or maintained by a governmental entity or any agency or
12 instrumentality thereof or by any person, firm or corporation unless the express prior
13 written permission of the owner, owner's agent, manager or operator of the property
14 has been obtained.

15 (c) Possession of spray paint and markers with intent to make graffiti is
16 prohibited. No person shall carry an aerosol spray paint can or broad-tipped indelible
17 marker with the intent to violate the provisions of this section.

18 (d) Possession of spray paint or broad-tipped indelible markers by minors on
19 public property is prohibited. No person under the age of eighteen (18) shall have in
20 his or her possession any aerosol container or spray paint can or broad-tipped
21 indelible marker while on public property, highway, street, alley, or way except in
22 the company of a supervising adult.

23 (e) Possession of spray paint or broad-tipped indelible markers by minors on
24 private property is prohibited without consent of the owner. No person under the age
25 of eighteen (18) shall have in his or her possession any aerosol container of spray
26 paint or broad-tipped indelible marker while on any private property unless the
27 owner, agent or manager, or person in possession of the property knows of the

1 minor's possession of the aerosol container or marker and has consented to the
2 minor's possession of the aerosol container or marker while on his or her property.

3 (f) Any person violating subsections (b), (c), (d), or (e) shall be punished by a
4 fine of two thousand dollars (\$2,000.00) for the first offense, and four thousand
5 dollars (\$4,000.00) for each subsequent offense or by imprisonment for a term not
6 to exceed one hundred eighty (180) days, or by both fine and imprisonment at the
7 discretion of the court. In the case of a minor, the parents or legal guardian shall be
8 responsible for payment of all fines. Failure of the parents or legal guardian to make
9 payment will result in the filing of lien on the parents or legal guardian's property to
10 include the fine and court costs.

11 (g) In addition to any punishment ordered under subsection (f), the court shall
12 order any person found in violation of subsections (b), (c), (d) or (e) to make
13 restitution to the victim for damage or loss caused directly or indirectly by the
14 defendant's offense in a reasonable amount or manner to be determined by the court.
15 Where the defendant is a minor, the parents or legal guardian shall be jointly and
16 severally liable with the minor to make such restitution.

17 (h) In addition to any punishment listed in subsections (f) and restitution ordered
18 under subsection (g) the court shall order any person found in violation of subsection
19 (b), (c), (d) or (e) to perform monitored community service in the removal of graffiti
20 of not less than two hundred fifty (250) hours and not more than five hundred (500)
21 hours.

22 (i) In addition to any punishment listed in subsections (f), (g), and (h), any adult
23 convicted for violating subsections (b), (c), (d), or (e) is guilty of a misdemeanor
24 punishable by imprisonment for not less than a mandatory one hundred twenty (120)
25 days.

26 (j) All personal property, including, but not limited to, automobiles and bicycles,
27 used or intended to be used in violating subsections (b), (c), (d) or (e) shall be

1 forfeitable to Guam. In any forfeiture under this section, the Court shall not order a
2 forfeiture unless it finds that the forfeiture is commensurate with the severity of the
3 violation to the extent required by the laws of Guam, the Organic Act, and the U.S.
4 Constitution.

5 (k) No person or firm shall sell or cause to be sold to any person under the age
6 of eighteen (18) years, and no person under the age of eighteen years (18) shall buy
7 any aerosol container of spray paint or broad-tipped indelible markers. Evidence that
8 a person, his or her employee, or agent demanded and was shown bona fide evidence
9 of majority and acted upon such evidence in a transaction or sale shall be a defense
10 to any prosecution thereof.

11 (l) Every person who owns, conducts, operates or manages a retail commercial
12 establishment selling aerosol containers of spray paint or broad-tipped indelible
13 markers *shall*:

14 (1) Place a sign in clear public view at or near the display of such products
15 stating:

16 ‘GRAFFITI IS A CRIME. ANY PERSON DEFACING REAL OR
17 PERSONAL PROPERTY NOT HIS OR HER OWN WITH PAINT OR ANY
18 OTHER LIQUID OR DEVICE IS GUILTY OF A CRIME PUNISHABLE BY
19 IMPRISONMENT OF UP TO ONE HUNDRED EIGHTY (180) DAYS
20 AND/OR A FINE UP TO FOUR THOUSAND DOLLARS (\$4,000.00).’

21 (2) Place a sign in the direct view of such persons responsible for accepting
22 customer payment for aerosol containers of spray paint or broad-tipped indelible
23 markers which states:

24 “IT IS A VIOLATION OF THE LAW TO SELL AEROSOL
25 CONTAINERS OF SPRAY PAINT OR BROAD-TIPPED INDELIBLE
26 MARKERS TO PERSONS UNDER 18 YEARS OF AGE PUNISHABLE BY
27 A CIVIL FINE OF TWO HUNDRED FIFTY DOLLARS (\$250.00).”

1 (m) Violation of subsection (l) shall result in a civil penalty of two hundred fifty
2 dollars (\$250.00) for first offense and five hundred dollars (\$500.00) for subsequent
3 offenses. When three (3) violations of subsection (l) occur within any calendar year
4 at a commercial establishment, that establishment shall be subject to an injunction
5 from a court of competent jurisdiction forbidding the sale of aerosol containers of
6 spray paints and broad-tipped indelible markers for a period up to two (2) years.
7 Violation of such injunction shall be punished by a fine of two hundred fifty hundred
8 dollars (\$250.00) per day of violation in addition to any other penalties levied by the
9 Court. Failure to make payment of fines will be subject to an injunction from a court
10 of competent jurisdiction forbidding the sale of aerosol containers of spray paints
11 and broad-tipped indelible markers until payment of the fine, attorney's fees and
12 costs.

13 (n) In addition to any punishment ordered under Subsection (f), (g), (h), (i) and
14 (j), the court shall immediately, upon conviction of an offender charged with the
15 defacement of property, revoke the license or instruction permit of any driver in
16 violation of this Section subject to a period of time described hereafter:

17 (1) after one (1) conviction, six (6) months;

18 (2) after a second or subsequent conviction, one (1) year for each conviction.

19 Any person who was convicted of any offense as described in this Act upon
20 being eligible to receive a license or instruction permit, shall not be eligible to
21 receive a license or instruction permit until the entire penalty period has elapsed.

22 Any prior convictions resulting in the revocation of a driver's license or
23 instruction permit shall not run concurrently with any existing or subsequent
24 suspension, revocation, cancellation or denial which is provided for by law.

25 **§ 34.80. Use of Fines Collected.**

26 Effective upon the enactment of this Section, all monies collected by the
27 enforcement of 9 GCA §§ 34.60 or 34.70 shall be deposited in the Appointed

1 Counsel Trust Fund established under 7 GCA § 22111 for fees and expenses related
2 to the legal defense of indigent persons and for other purposes as set forth by the
3 Judicial Council.

4 **§ 34.90. Destruction of Property: Penalty.**

5 A person commits a misdemeanor if, he without the written permission of the
6 owner or of the owner's agent or of the person in lawful possession:

7 (a) Maliciously tears down, damages, mutilates or destroys any sign,
8 signboard or notice placed upon, or affixed to any property that belongs to the
9 government of Guam, which sign, signboard or notice is intended to indicate or
10 designate a road or highway or is intended to designate speed limits or a traffic
11 hazard or is intended to direct travelers from one point to another or is intended
12 to advise of prohibited entry or relates to fires, fire control, trespassing or other
13 matters involving the protection of the property;

14 (b) Willfully opens, tears down or otherwise destroys any fence on the land
15 of another or willfully removes, injures, cuts or tampers with any lock or any
16 locked gate or any locked chain or any other locked barrier on any road, track or
17 trail leading into lands of another or maliciously tears down, mutilates or
18 destroys any sign, signboard or other notice forbidding shooting on public or
19 private property; or

20 (c) Enters any lands, whether unenclosed or enclosed by fence, for the
21 purpose of injuring any property or property rights or with the intention of
22 interfering with, obstructing or injuring any lawful business or occupation
23 carried on by the owner of such land, his agent or by the person in lawful
24 possession; or

25 (d) Enters any lands under cultivation or enclosed by fence, belonging to, or
26 occupied by, any other or enters upon uncultivated and unenclosed lands
27 belonging to, or occupied by, any other where signs forbidding trespass are

1 displayed at intervals not less than three to the mile along all exterior boundaries
2 on all roads and trails entering such lands:

3 (1) For the purpose of hunting, shooting, killing or destroying any animal
4 or bird upon such lands; or

5 (2) Discharges any firearms upon such land or lands; or

6 (3) Refuses or fails to leave such lands immediately upon being
7 requested to leave by the owner of such land, his agent or by the person in
8 lawful possession; or

9 (4) Tears down, mutilates or destroys any sign, signboard or notice
10 forbidding entry on such lands.

11 (e) Enters upon any lands declared closed to public entry by the Government
12 where such closed lands are posted with notices declaring such closure at
13 intervals not greater than one mile along the exterior boundaries or along roads
14 and trails passing through such lands declaring the lands closed to public entry
15 or stating "no trespassing." The Director of the Department of Land
16 Management, in compliance with the Administrative Adjudication Act, is
17 authorized to designate as closed to public entry and post "no trespassing" signs
18 on any portion or portions of property belonging to the Government upon his
19 determination that such designation is reasonably necessary for the purpose of
20 public safety, preservation of government property, conservation of resources,
21 fire prevention, safety of adjoining property owners or prevention of nuisances.

22 (e) Enters upon any lands declared closed to public entry by the Government
23 where such closed lands are posted with notices declaring such closure at
24 intervals not greater than one mile along the exterior boundaries or along roads
25 and trails passing through such lands declaring the lands closed to public entry
26 or stating "no trespassing." The Director of the Department of Land
27 Management, in compliance with the Administrative Adjudication Act, is

1 authorized to designate as closed to public entry and post "no trespassing" signs
2 on any portion or portions of property belonging to the Government upon his
3 determination that such designation is reasonably necessary for the purpose of
4 public safety, preservation of government property, conservation of resources,
5 fire prevention, safety of adjoining property owners or prevention of nuisances.

6 **Section 15. Chapter 37, Title 9, Guam Code Annotated, is hereby *repealed***
7 ***and reenacted in its entirety as follows:***

8 **CHAPTER 37**

9 **BURGLARY AND HOME INVASION**

10 **ARTICLE 1**

11 **BURGLARY**

12 **§ 37.10. Definitions: Ref. to § 16.10.**

13 As used in this Chapter:

14 (a) Habitable Property has the meaning provided by § 34.10 and includes
15 any such property whether or not a person is actually present therein.

16 (b) Night means the period between thirty (30) minutes past sunset and thirty
17 (30) minutes before sunrise.

18 (c) Deadly Weapon has the meaning provided by § 16.10, Title 9, Guam Code
19 Annotated.

20 (d) Motor Vehicle, Semi-Trailer, Trailer, Truck, Truck-Tractor, Vehicle, and
21 Vehicle Combination are defined by § 5101, Title 16, Guam Code Annotated;
22 and Motor Vehicle, Motor Bus, Motor Truck, Semi-Trailer, Trailer, and Vehicle
23 are also defined by § 1102, Title 16, Guam Code Annotated.

24 (e) School means any public or private educational facility, including
25 institutions of higher learning, which shall encompass all instructional, non-
26 instructional, sports and extra curricular buildings and facilities.

1 **§ 37.20. Burglary: Defined, Punishment Classified.**

2 (a) A person is guilty of burglary if he enters or surreptitiously remains in any
3 habitable property, building, or a separately secured or occupied portion thereof, or
4 if he enters or surreptitiously remains in any School as defined in § 37.10(e) of this
5 Chapter, with intent to commit a crime therein, unless the premises are at the time
6 open to the public or the defendant is licensed or privileged to enter, or a person is
7 guilty of burglary if he enters or surreptitiously remains in any motor vehicle, semi-
8 trailer, trailer, truck tractor, vehicle combination, motor bus, motor truck, or vehicle,
9 with intent to commit a crime therein. It is an affirmative defense to prosecution for
10 burglary that the property, or building, or motor vehicle was abandoned or if the
11 person reasonably believed that he or she owned, leased rented or was otherwise
12 licensed to enter and remain in the habitable property, building, or a separately
13 secured or occupied portion thereof, or the School, motor vehicle, semi-trailer,
14 trailer, truck tractor, vehicle combination, motorbus, motor truck, or vehicle.

15 (b) Burglary is a felony of the second degree. In the case of burglary as a felony
16 of the second degree, the court shall impose a sentence of imprisonment of a
17 minimum term of five (5) years, and may impose a maximum term of up to ten (10)
18 years; the minimum term imposed shall not be suspended nor may probation be
19 imposed in lieu of the minimum term nor shall parole or work release be granted
20 before completion of the minimum term. The sentence shall include a special parole
21 term of not less than three (3) years, in addition to such term of imprisonment.
22 Provided, however, that in the case of an offender not previously convicted of a
23 felony, the court may sentence the offender to not more than five (5) years
24 imprisonment as a third degree felony conviction, and the provisions of this
25 Subsection prohibiting probation, suspension, parole or work release shall not be
26 applicable to such offender.

1 (c) A second or subsequent offense of burglary to a school shall be a felony of
2 the first degree. In the case of a second or subsequent conviction of burglary
3 committed to a school as a felony of the first degree, the court shall impose a
4 sentence of imprisonment of a minimum term of ten (10) years, and may impose a
5 maximum term of up to twenty (20) years; the minimum term imposed shall not be
6 suspended nor may probation be imposed in lieu of the minimum term nor shall
7 parole or work release be granted before completion of the minimum term. The
8 sentence shall include a special parole term of not less than three (3) years in addition
9 to such term of imprisonment. However, if the offender is under the age of eighteen
10 years the court shall have the discretion to suspend all or a portion of the minimum
11 sentence, and may encourage the Balanced Approach Restorative Justice Process as
12 provided in 19 GCA § 5134.

13 **§ 37.30. Criminal Trespass: Defined, Punished, Defenses.**

14 (a) A person commits an offense if, knowing that he is not licensed or privileged
15 to do so, he enters or surreptitiously remains in any habitable property or any
16 building or any motor vehicle. An offense under this Subsection is a misdemeanor
17 if it is committed in a dwelling or motor vehicle. Otherwise it is a petty
18 misdemeanor.

19 (b) A person commits an offense if, knowing that he is not licensed or privileged
20 to do so, he enters or remains in any place as to which notice against trespass is given
21 by:

22 (1) actual communication to the defendant;

23 (2) posting in a manner prescribed by law or reasonably likely to come to the
24 attention of intruders; or

25 (3) fencing or other enclosure manifestly designed to exclude intruders. An
26 offense under this Subsection constitutes a petty misdemeanor if the offender
27 defies an order to leave personally communicated to him by the owner of the

1 premises or other authorized person or a peace officer. Otherwise it is a
2 violation.

3 (c) It is an affirmative defense to prosecution under this Section that:

4 (1) the property or building involved in an offense under Subsection (a) was
5 abandoned;

6 (2) the premises were at the time open to members of the public and the
7 defendant complied with all lawful conditions imposed on access to or remaining
8 in the premises; or

9 (3) the defendant reasonably believed that the owner of the premises, or other
10 person empowered to license access thereto, would have licensed him to enter
11 or remain.

12 ~~§ 37.40. — The Breaking of Window Glass to Gain Access to Vehicles.~~

13 ~~(a) Any person who breaks a glass window of a vehicle, as defined in § 37.10(d)~~
14 ~~of this Chapter, in the process of committing, or attempting to commit, burglary or~~
15 ~~criminal trespass, is guilty of an additional offense as a third degree felony.~~

16 ~~(b) Any person who breaks a glass window of a vehicle, as defined in § 37.10(d)~~
17 ~~of this Chapter, in the process of committing, or attempting to commit, burglary or~~
18 ~~criminal trespass, in which the broken glass causes bodily injury to an innocent~~
19 ~~person is guilty of an additional offense as a second degree felony.~~

20 **ARTICLE 2**

21 **HOME INVASION**

22 **§ 37.210. Home Invasion.**

23 A person is guilty of home invasion when such person commits a crime of
24 burglary, as defined by this Chapter, in a dwelling, while a person other than a
25 participant in the crime is actually present in such dwelling, with the intent to commit
26 a crime therein, and, in the course of committing the offense:

27 (a) acting either alone or with one or more persons, such person or another

1 participant in the crime commits or attempts to commit a violent crime against
2 the person of another person other than a participant in the crime who is actually
3 present in such dwelling;

4 (b) such person is armed with explosives or a deadly weapon or dangerous
5 instrument; or

6 (c) if any of the acts of a participant at any time during the burglary, or while
7 attempting a burglary, or while fleeing from a burglary/attempted burglary,
8 directly or indirectly, cause mental or emotional trauma, bodily injury, serious
9 bodily injury, or the death of an occupant of the dwelling who is not a participant
10 in the burglary.

11 **§ 37.220. In the Course of Committing Home Invasion.**

12 An act shall be deemed "in the course of committing" the offense if it occurs in
13 an attempt to commit the offense, or flight after the attempt or commission.

14 **§ 37.230. Knowledge of Occupancy is Not a Defense.**

15 It is no defense that the defendant reasonably believed that the dwelling was
16 unoccupied, by a person who was not a participant in the crime, at the time the home
17 invasion occurred.

18 **§ 37.240. Home Invasion Punished.**

19 (a) Home invasion is a first degree felony, and any person found guilty under
20 this Section shall be sentenced to a term of imprisonment of which at least ten years
21 may not be suspended or reduced by the court.

22 (b) The sentence imposed for home invasion shall run consecutively to any
23 sentence for other crimes committed in conjunction with the home invasion.

24 **ARTICLE 3**

25 **CARJACKING**

26 **§ 37.310. Carjacking.**

27 A person is guilty of carjacking when such person commits a crime of burglary,

1 as defined by this Chapter, in a vehicle, while a person other than a participant in the
2 crime is actually present in such vehicle, with intent to commit a crime therein, and,
3 in the course of committing the offense:

4 (a) acting either alone or with one or more persons, such person or another
5 participant in the crime commits or attempts to commit a violent crime against
6 the person of another person other than a participant in the crime who is actually
7 present in such vehicle; or

8 (b) if any of the acts of a participant at any time during the burglary, or while
9 attempting a burglary or while fleeing from a burglary/attempted burglary,
10 directly or indirectly, cause the mental or emotional trauma, bodily injury,
11 serious bodily injury or the death of an occupant of the vehicle who is not a
12 participant in the burglary.

13 **§ 37.320. Armed Carjacking.**

14 Whoever commits the offense of carjacking while armed with, or having readily
15 available, any pistol, or other firearm or imitation thereof, or other dangerous or
16 deadly weapon, including a firearm, dirk, knife, switchblade, razor, blackjack, billy,
17 or metallic or other false knuckles, or any object capable of inflicting death or serious
18 bodily injury, shall be guilty of armed carjacking.

19 **§ 37.330. In the Course of Committing Carjacking or Armed Carjacking.**

20 An act shall be deemed “in the course of committing” the offense if it occurs in
21 an attempt to commit the offense or flight after the attempt or commission.

22 **§ 37.340. Knowledge of Occupancy is Not a Defense.**

23 It is no defense the defendant reasonably believed that the vehicle was
24 unoccupied, by a person who was not a participant in the crime, at the time the
25 carjacking or armed carjacking occurred.

26 **§ 37.350. Carjacking Punished.**

27 (a) Carjacking is a first degree felony and any person found guilty under § 37.310

1 shall be sentenced to a term of imprisonment of which at least ten (10) years may
2 not be suspended or reduced by the court.

3 (b) The sentence imposed for carjacking shall run consecutively to any sentence
4 for other crimes committed in conjunction with the carjacking.

5 **§ 37.360. Armed Carjacking Punished.**

6 (a) Armed carjacking is a first degree felony and any person found guilty under
7 § 37.320 shall be sentenced to a term of imprisonment of which at least fifteen (15)
8 years may not be suspended or reduced by the court.

9 (b) The sentence imposed for armed carjacking shall run consecutively to any
10 sentence for other crimes committed in conjunction with the carjacking.

11 **Section 16. Chapter 40, Title 9, Guam Code Annotated, is hereby *repealed***
12 ***and reenacted in its entirety as follows:***

13 **CHAPTER 40**

14 **ROBBERY**

15 **§ 40.10. First Degree Robbery; Defined & Punished.**

16 (a) A person is guilty of *robbery in the first degree* if, in the course of committing
17 a theft, he:

18 (1) attempts to kill another; or

19 (2) intentionally inflicts or attempts to inflict serious bodily injury upon
20 another.

21 (b) Robbery in the first degree is a felony of the first degree. In the case of
22 robbery in the first degree, the court shall impose a sentence of imprisonment of a
23 minimum term of ten (10) years and may impose a maximum of up to twenty-five
24 (25) years; the minimum term imposed shall not be suspended nor probation be
25 imposed in lieu of said minimum term nor shall parole, work release or educational
26 programs outside the confines of prison be granted before completion of the
27 minimum term. The sentence shall include a special parole term of not less than three

1 (3) years in addition to such time of imprisonment.

2 **§ 40.20. Second Degree Robbery; Defined & Punished.**

3 (a) A person is guilty of *robbery in the second degree* if, in the course of
4 committing a theft, he:

5 (1) inflicts serious bodily injury upon another; or

6 (2) threatens another with or intentionally puts him in fear of immediate
7 serious bodily injury; or

8 (3) is armed with or displays what appears to be explosives or a deadly
9 weapon. “Deadly Weapon” has the meaning provided by § 16.10.

10 (b) Robbery in the second degree is a felony of the second degree. In the case of
11 robbery of the second degree as a felony of the second degree, the court shall impose
12 a sentence of imprisonment of a minimum term of five (5) years and may impose a
13 maximum term of up to ten (10) years; the minimum term imposed shall not be
14 suspended nor may probation be imposed in lieu of the minimum term nor shall
15 parole or work release be granted before completion of the minimum term. The
16 sentence shall include a special parole term of not less than three (3) years in addition
17 to such term of imprisonment.

18 **§ 40.30. Third Degree Robbery; Defined & Punished.**

19 (a) A person is guilty of robbery in the third degree if, in the course of
20 committing a theft, he:

21 (1) uses force against another with intent to overcome his physical resistance
22 or physical power of resistance; or

23 (2) threatens another with or intentionally puts him in fear of the imminent
24 use of force against the person of anyone with intent to compel acquiescence to
25 the taking of or escaping with property.

26 (b) Robbery in the third degree is a felony of the third degree.

27 **§ 40.40. Definition of an Act.**

1 An *act* occurs in the course of committing a theft if it occurs in an attempt to
2 commit theft or in flight after the attempt or commission.

3 **§ 40.50. No Defense of “Claim of Right”.**

4 It is no defense to a prosecution of robbery in any of its degrees that there was
5 no theft because the taking was under a claim of right.

6 **Section 17. Chapter 43, Title 9, Guam Code Annotated, is hereby *repealed***
7 ***and reenacted in its entirety as follows:***

8 **CHAPTER 43**

9 **THEFT AND RELATED OFFENSES**

10 **ARTICLE 1**

11 **DEFINITIONS**

12 **§ 43.10. Definitions.**

13 As used in this Chapter, unless a different meaning plainly is required:

14 (a) *Deprive* means:

15 (1) to withhold property of another permanently or for so extended a
16 period as to appropriate a major portion of its economic value, or with intent
17 to restore only upon payment of reward or other compensation; or

18 (2) to abandon the property under circumstances amounting to a reckless
19 exposure to loss.

20 (b) *Movable Property* means property the location of which can be changed,
21 including things growing on, or affixed to, or found in land, and documents
22 although the rights represented thereby have no physical location. Immovable
23 Property is all other property.

24 (c) *Obtain* means:

25 (1) in relation to property, to bring about a transfer or purported transfer
26 of legal interest in the property, whether to the obtainer or another; or

27 (2) in relation to labor or service, to secure performance thereof.

1 (d) *Property* means anything of value, including real estate, tangible and
2 intangible personal property, contract rights, choses in action and other interests
3 in or claims to wealth, admission or transportation tickets, captured or domestic
4 animals, food and drink, electric or other power, trade secrets, or agricultural
5 product, which includes floriculture, horticulture, viticulture, aquaculture,
6 forestry products and commodities, shrubbery, nuts, coffee, seeds, or other farm
7 or plantation products or commodities grown by or raised by a bona fide farmer
8 as defined by 5 GCA§ 60354(f).

9 (e) *Property of Another* includes property in which any person other than the
10 defendant has an interest which the defendant is not privileged to infringe,
11 regardless of the fact that the defendant also has an interest in the property and
12 regardless of the fact that the other person might be precluded from civil
13 recovery because the property was used in an unlawful transaction or was subject
14 to forfeiture as contraband. Property in possession of the defendant shall not be
15 deemed property of another who has only a security interest therein, even if legal
16 title is in the creditor pursuant to a conditional sales contract or other security
17 agreement.

18 (f) *Trade Secret* means the whole or any portion of phase of any scientific or
19 technical information, design, process, procedure, formula or improvement
20 which is secret and is not generally available to the public, and which gives one
21 who uses it an advantage over actual or potential competitors who do not know
22 of or use the trade secret, or the contents of private and unpublished records used
23 in the business of examining, certifying or insuring titles to real property. Proof
24 that the owner takes measures to prevent information from becoming available
25 to persons other than those selected by the owner to have access thereto for
26 limited purposes gives rise to an inference that the information is secret.

1 **§ 43.15. Theft a Single Offense.**

2 Conduct denominated theft in this Chapter constitutes a single offense. An
3 accusation of theft may be supported by evidence that it was committed in any
4 manner that would be theft under this Chapter, notwithstanding the specification of
5 a different manner in the accusatory pleading, subject only to the power of the court
6 to ensure fair trial by granting a continuance or other appropriate relief where the
7 conduct of the defense would be prejudiced by lack of fair notice of by surprise.

8 **§ 43.20. Theft; Defined & Punishment Classified.**

9 (a) *Theft* constitutes a felony of the second degree if the amount involved is Five
10 Thousand Dollars (\$5000.00) or more ~~exceeds One Thousand Five Hundred Dollars~~
11 ~~(\$1,500)~~ or if the property stolen is a bus, truck, automobile, aircraft, motorcycle, or
12 motor boat, or in the case of theft by receiving stolen property, if the defendant is in
13 the business of buying and selling stolen property. In the case of theft as a felony of
14 the second degree, the court shall impose a sentence of imprisonment of a minimum
15 term of five (5) years and may impose a maximum term of up to ten (10) years; the
16 minimum term imposed shall not be suspended nor may probation be imposed in
17 lieu of the minimum term nor shall parole or work release be granted before
18 completion of the minimum term. The sentence shall include a special parole term
19 of not less than three (3) years in addition to such term of imprisonment provided,
20 however, that in the case of an offender not previously convicted of a felony or of
21 an offense constituting theft, the court may sentence the offender to not more than
22 five (5) years imprisonment and the provisions of this subsection prohibiting
23 probation, suspension, parole, or work release shall not be applicable to such
24 offender.

25 (b) Theft constitutes a felony of the third degree if the amount involved is
26 Twenty-Five Hundred Dollars (\$2500.00) or more ~~is less than One Thousand Five~~
27 ~~Hundred Dollars (\$1,500.00) but exceeds Five Hundred Dollars (\$500.00)~~ or if the

1 property stolen is a firearm or motorized vehicle other than those set forth in
2 Subsection (a) of this Section, or if the theft is through an unauthorized electrical
3 connection.

4 (c) Theft not constituting a felony of the second or third degree is a misdemeanor
5 if the amount involved is Five Hundred Dollars (\$500.00) or more ~~exceeds Fifty~~
6 ~~Dollars (\$50)~~ or if the property stolen is a credit card or if the property was taken
7 from the person or by extortion.

8 (d) Theft not constituting a felony of the second or third degree or a misdemeanor
9 is a petty misdemeanor if the amount involved is less than Five Hundred Dollars
10 (\$500.00).

11 (e) The amount involved in a theft shall be the fair market value of the property
12 or services which the defendant stole or attempted to steal. Whether or not they have
13 been issued or delivered, written instruments not having a readily ascertained market
14 value shall be evaluated as follows:

15 (1) The value of an instrument constituting an evidence of a debt, such as a
16 check, draft or promissory note, shall be the amount due or collectible thereon
17 or thereby, that figure ordinarily being the face amount of the indebtedness less
18 any portion thereof which has been satisfied.

19 (2) The value of any other instrument that creates, releases, discharges or
20 otherwise affects any valuable legal right, privilege or obligation shall be
21 deemed the greatest amount of economic loss which the owner of the instrument
22 might reasonably suffer by virtue of the loss of the instrument.

23 (f) Amounts involved in thefts committed pursuant to one scheme or course of
24 conduct, whether from the same person or several persons or ~~amount~~ amounts
25 involved in thefts by a servant, agent or employee from his principal or employer in
26 any period of twelve (12) consecutive months, may be aggregated in determining
27 the grade of the offense.

1 **§ 43.21. Definition of Unauthorized Electrical Connections or Illegal Power**
2 **Hook-Ups.**

3 An illegal power hook-up is any connection to power lines which belong to the
4 government of Guam, that is made without the prior written permission of the Guam
5 Power Authority, or any power hook-up from a direct power line which bypasses or
6 hinders meter registration. The conditions include, but are not limited to:

- 7 (a) External jumpers;
- 8 (b) Bypass on meter;
- 9 (c) Tap ahead of electric meter;
- 10 (d) Inverted (electric) or reversed substitution meter;
- 11 (e) Manipulation of meter dials;
- 12 (f) Foreign materials inside electric meter;
- 13 (g) Open potential line;
- 14 (h) Unmetered theft of service;
- 15 (i) Metered theft of service; or
- 16 (j) Any other unauthorized or illegal hook-up.

17 **§ 43.25. Defenses; Conditions Upon Same.**

18 (a) It is an affirmative defense to prosecution for theft that the defendant:

19 (1) was unaware that the property or service was that of another; or

20 (2) acted in good faith under a claim of right to the property or service
21 involved or that he had a claim of right to acquire or dispose of it as he did.

22 (b) It is no defense that theft was from the defendant's spouse, except that
23 misappropriation of household and personal effects, or other property normally
24 accessible to both spouses, is theft only if it occurs after the parties have ceased
25 living together.

26 **§ 43.30. Theft of Property; Defined.**

1 (a) A person is guilty of *theft* if he unlawfully takes or obtains or exercises
2 unlawful control over, movable property of another with intent to deprive him
3 thereof.

4 (b) A person is guilty of theft if he unlawfully transfers immovable property of
5 another or any interest therein with intent to deprive him thereof.

6 **§ 43.31. Crime Against the Community; Defined and Punishment.**

7 (a) A person is guilty of a Crime Against the Community if that person
8 knowingly takes, obtains or exercises unlawful control over government-owned,
9 leased or borrowed property, or interferes with, obstructs, or takes action regarding
10 government services in such a way that: (1) doing so creates a threat to the public
11 health and safety; or (2) doing so results in a deprivation of public services, such as
12 utility services, the education of public or private school students, or any government
13 service intended to benefit the public.; ~~or (3) does so for a purpose other than the~~
14 ~~original purpose for which the property or services were to be provided.~~

15 (b) A person is guilty of a Crime Against the Community if that person
16 knowingly destroys, defaces, alters, tampers with or damages government-owned,
17 leased or borrowed property.

18 (c) A Crime Against the Community shall be alleged, in an information,
19 complaint or indictment, as a Special Allegation which enhances punishment when
20 the defendant is convicted of another offense. A Crime Against the Community shall
21 be tried to a jury if the underlying crime is tried to a jury.

22 (d) A person convicted of a Crime Against the Community shall be sentenced
23 to:

24 (1) Insofar as is practicable, make restitution to the victim of the crime,
25 including the government of Guam or the Federal government;

26 (2) Insofar as is practicable, perform community service intended to raise
27 community awareness that a crime against the public interest has been

1 committed and is being punished, including, *but not limited to*, repair, painting
2 and cleaning of items which are stolen, damaged or defaced; or

3 (3) Serve one (1) year of incarceration and pay an additional fine of up to
4 Five Thousand Dollars (\$5,000.00) in addition to the sentence imposed for the
5 underlying crime, if the underlying crime is a misdemeanor or felony. The court
6 may suspend said term of incarceration and impose a term of probation instead.

7 **§ 43.35. Theft by Deception; Defined.**

8 (a) A person is guilty of *theft* if he intentionally obtains property of another by
9 deception. A person deceives if he intentionally:

10 (1) creates or reinforces a false impression, including false impressions as to
11 law, value, intention or other state of mind; but deception as to a person's
12 intention to perform a promise shall not be inferred from the fact alone that he
13 did not subsequently perform the promise;

14 (2) prevents another from acquiring information which would affect his
15 judgment of a transaction;

16 (3) fails to correct a false impression which the deceiver previously created
17 or reinforced, or which the deceiver knows to be influencing another to whom
18 he stands in a fiduciary or confidential relationship; or

19 (4) fails to disclose a known lien, adverse claim or other legal impediment
20 to the enjoyment of property which he transfers or encumbers in consideration
21 for the property obtained, whether such impediment is or is not valid, or is not a
22 matter of official record.

23 (b) The term deceive does not include falsity as to matters having no pecuniary
24 significance, or puffing by statements unlikely to deceive typical members of the
25 group addressed.

26 **§ 43.40. Theft by Threatening; Defined; Defense.**

1 (a) A person is guilty of *theft* if he intentionally obtains property of another by
2 threatening to:

3 (1) inflict bodily injury on anyone or commit any other criminal offense;

4 (2) accuse anyone of a criminal offense;

5 (3) expose any secret tending to subject any person to hatred, contempt or
6 ridicule, or to impair his credit or business repute;

7 (4) take or withhold action as an official, or cause an official to take or
8 withhold action;

9 (5) bring about or continue a strike, boycott or other collective unofficial
10 action, if the property is not demanded or received for the benefit of the group
11 in whose interest the defendant purports to act;

12 (6) testify or provide information or withhold testimony or information with
13 respect to another's legal claim or defense; or

14 (7) do any other act which would not substantially benefit the defendant but
15 which is calculated to harm another person.

16 (b) It is an affirmative defense to prosecution for extortion by threats to charge
17 any person with a crime that the defendant honestly believed the threatened charge
18 to be true and that the property obtained was honestly claimed as restitution or
19 indemnification for harm done in the circumstances to which such charge addressed.

20 **§ 43.45. Theft of Property Lost, Mislaid or Delivered by Mistake; Defined.**

21 A person who comes into control of property of another that he knows to have
22 been lost, mislaid or delivered under a mistake as to the nature or amount of the
23 property or the identity of the recipient is guilty of theft if, with intent to deprive the
24 owner thereof, he fails to take reasonable measures to restore the property to a person
25 entitled to have it.

26 **§ 43.50. Theft by Receiving Stolen Property; Defined.**

1 (a) A person is guilty of *theft* if he intentionally receives, retains or disposes of
2 movable property of another knowing that it has been stolen or believing that it has
3 probably been stolen. It is a defense to a charge of violating this Section that the
4 defendant received, retained or disposed of the property with intent to restore it to
5 the owner.

6 (b) Where the defendant is in the business of buying, selling or otherwise dealing
7 in property, proof that he obtained stolen property without having made reasonable
8 inquiry whether the person from whom he obtained it has the legal right to sell or
9 deliver it, and that he obtained it under circumstances which should have caused him
10 to make such inquiry, gives rise to an inference that he obtained it knowing that it
11 has been stolen or believing that it has been probably been stolen.

12 (c) Any person or corporation which is in the business of buying or selling gold,
13 diamonds, coins, silver, or gems or jewelry shall retain for a minimum of one (1)
14 year after the last entry a log book of all purchases made from on-island sources,
15 indicating the nature of the items bought, the name and address of the seller, the
16 price paid, and the date of purchase. In addition, in the case of items purchased from
17 a person not in the business of selling gold, coins, diamonds, gems, silver, or jewelry,
18 the purchaser shall either take a picture of the seller, or shall obtain identification
19 from the seller containing a picture. The above records shall be made available to
20 law enforcement officers upon request.

21 (d) Any person or corporation which is in the business of buying or selling gold,
22 diamonds, coins, silver, or gems or jewelry shall retain all items purchased on Guam
23 from persons not business licensed for the purpose of buying or selling gold,
24 diamonds, coins, silver, gems or jewelry for a period of seven (7) days before selling,
25 melting, destroying, or otherwise disposing of such items purchased on Guam.

26 (e) It shall be unlawful for any person to knowingly purchase gold, diamonds,
27 jewelry, silver, gems or coins from any person under the age of eighteen (18) years,

1 provided that nothing herein shall be construed as prohibiting the parent or guardian
2 of a minor child from selling gold, diamonds, jewelry, coins or gems belonging to a
3 minor child, on behalf of said child.

4 (f) Any person, corporation or entity who, as a substantial part of a business,
5 buys and sells used items, including copper wire, bronze, brass, aluminum and other
6 non ferrous metals, but shall not include recyclable aluminum cans and including
7 any contractor who buys copper wire, bronze, brass, aluminum and other non ferrous
8 metals, but shall not include recyclable aluminum cans, in the course of conducting
9 his or her business, shall retain, for a minimum of one (1) year form authorized by
10 the Chief of Police of all purchases of copper wire, bronze, brass, aluminum and
11 other non ferrous metals, but shall not include recyclable aluminum cans from on-
12 island sources, indicating the nature and a reasonable estimate of the size, shape,
13 weight, and length of the items bought, the name, signature and address of the seller,
14 the price paid, and the date of purchase, telephone number, and shall obtain and
15 maintain a copy of each seller's identification documents, including, but not limited
16 to, a government driver's license, government identification card or passport, and a
17 copy of the registration certificate of the vehicles used to transport the copper wire,
18 bronze, brass, aluminum and other non ferrous metals but shall not include
19 recyclable aluminum cans, the name of the employee representing the scrap metal
20 business in the transaction. The above records shall be made available to law
21 enforcement officers upon request. Copies of all completed forms or paper of
22 information required by this Section, immediately upon purchase of the copper wire,
23 bronze, brass, aluminum and other non ferrous metals, but shall not include
24 recyclable aluminum cans, shall be immediately transmitted via email or by
25 facsimile transmittal to the Guam Police Department.

26 (g) Any person, corporation or entity who, as a substantial part of a business,
27 buys and sells used items, including copper wire, bronze, brass, aluminum and other

1 non ferrous metals but shall not include recyclable aluminum cans, and including
2 any contractor who buys copper wire, bronze, brass, aluminum and other non ferrous
3 metals, but shall not include recyclable aluminum cans, in the course of conducting
4 his or her business, who purchases said items from persons who do not have a
5 business license for buying or selling copper wire, bronze, brass, aluminum and
6 other non ferrous metals, but shall not include recyclable aluminum cans, shall keep
7 such items for a period of seven (7) days before altering, selling, melting, destroying,
8 or otherwise disposing of said items purchased on Guam.

9 (h) Any knowing violation of Subsections (c), (d) or (e) of § 43.50 of Chapter
10 43 of Title 9 GCA shall be a misdemeanor upon the first conviction of any such
11 violation, and shall be a felony of the third degree for any subsequent offense. Any
12 violation of Subsections (f) or (g) shall be a felony of the third degree. A third
13 conviction of any such violation shall require revocation of the offender's business
14 license.

15 (i) Any violation of subsections (f) or (g), *shall* be punishable by a term of one
16 (1) to five (5) years in prison, a fine of Ten Thousand Dollars (\$10,000) to Twenty-
17 five Thousand Dollars (\$25,000) and restitution per incident. The amount of
18 restitution *shall* include the replacement cost of the item, the cost of repairs for
19 damages caused by the theft and the cost associated with the loss of use of the item.

20 **§ 43.51. Theft of Utilities.**

21 (a) A person is guilty of *theft* if he knowingly tampers with, alters or by-passes
22 meters for the purpose of obtaining electrical power, gas or water without paying
23 compensation to the entity providing such services. A person commits theft if he
24 knowingly diverts telephone service, electrical power, gas or water to his own
25 benefit or to the benefit of another not entitled thereto with the intent to avoid
26 payment to the entity providing such service.

1 (b) Unauthorized Electrical Connections; Bypass or Obstruction of Meter. Every
2 user, contractor or business who shall unlawfully and knowingly injure, alter, or
3 procure to be injured, make or cause to be made any connection in any manner
4 whatsoever with any electric wire or electric appliance of any character whatsoever
5 operated by any user, users, corporations or government entities authorized to
6 generate, transmit and sell electric current, or who shall so willfully and knowingly
7 with intent to injure or defraud, use or cause to be used any such connection in such
8 manner as to supply any electric current for heat or light or power to any electric
9 lamp, apparatus or device, by, or at which electric current is consumed or otherwise
10 used or wasted, without passing through a meter for the measuring and registering
11 of the quantity passing through such electric wire or apparatus, or who shall,
12 knowingly or with like intent injure, alter or procure to be injured or altered any
13 electric meter, or obstruct its working, or procure the same to be tampered with or
14 injured, or use or cause to be used any electric meter, or appliance so tampered with
15 or injured, shall be deemed guilty of a theft constituting a felony in the third degree,
16 and shall be subject to any and all fines, penalties and terms of imprisonment
17 applicable by law, as well as any and all fines payable to the Guam Power Authority.

18 **§ 43.55. Theft of Services; Defined.**

19 (a) A person is guilty of *theft* if he intentionally obtains services which he knows
20 are available only for compensation, by deception or threat, or by false token or other
21 means to avoid payment for the service. Services include labor, professional service,
22 transportation, telephone or other public service, accommodation in hotels,
23 restaurants or elsewhere, admission to exhibitions, use of vehicles or other movable
24 property. Where compensation for services is ordinarily paid immediately upon the
25 rendering of such service, as in the case of hotels and restaurants, absconding without
26 payment or offer to pay gives rise to an inference that the service was obtained by
27 deception as to intention to pay.

1 (b) A person commits theft if, having control over the disposition of services of
2 others, to which he is not entitled, he knowingly diverts such services to his own
3 benefit or to the benefit of another not entitled thereto.

4 **§ 43.56. Unauthorized Reception of Cable Service.**

5 (a) Unauthorized Interception or Receipt or Assistance in Intercepting or
6 Receiving Service; Definition of Assist in Intercepting or Receiving.’

7 (1) No person shall intercept or receive or assist in intercepting or receiving
8 any communications service offered over a cable system, unless specifically
9 authorized to do so by a cable operator or as may otherwise be specifically
10 authorized by law.

11 (2) For the purpose of this Section, the term assist in intercepting or
12 receiving’ shall include the manufacture or distribution of equipment intended
13 by the manufacturer or distributor (as the case may be) for unauthorized
14 reception of any communications service offered over a cable system in violation
15 of Subparagraph (1).

16 (b) Penalties for Willful Violation.

17 (1) Any person who willfully violates Subsection (a)(1) shall be guilty of a
18 misdemeanor and shall be punished by a fine of not more than One Thousand
19 Dollars (\$1,000.00) or imprisoned for not more than one (1) year, or both, for
20 the first such offense and shall be guilty of a felony of the third degree and shall
21 be punished by a fine of not more than Three Hundred Dollars (\$300.00) or
22 imprisoned for not more than three (3) years, or both, for any subsequent offense.

23 (2) Any person who violates Subsection (a)(1) willfully and for purposes of
24 commercial advantage or private financial gain shall be guilty of a felony of the
25 third degree and shall be punished by a fine of not more than Three Thousand
26 Dollars (\$3,000.00) or imprisoned for not more than three (3) years, or both, for
27 the first such offense and shall be guilty of a felony of the second degree and

1 shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00)
2 or imprisoned for not more than five (5) years, or both, for any subsequent
3 offense.

4 (3) For purposes of all penalties and remedies established for violations of
5 Subsection (a)(1), the prohibited activity established herein, as it applies to each
6 such device, shall be deemed a separate violation.

7 **§ 43.60. Theft of Property Held in Trust; Defined.**

8 A person who in the course of business obtains property upon agreement, or
9 subject to a known legal obligation, to make specified payment or other disposition,
10 whether from such property or its proceeds or from his own property to be reserved
11 in equivalent amount, is guilty of theft if he intentionally deals with the property as
12 his own and fails to make the required disposition. The foregoing applies
13 notwithstanding that it may be impossible to identify particular property as
14 belonging to the victim at the time of the defendant's failure to make the required
15 payment or disposition.

16 **§ 43.65. Unauthorized Use of Vehicle: Defined; Punished; Defense.**

17 (a) A person commits a misdemeanor if he operates an automobile, aircraft,
18 motorcycle, motorboat or other motor-propelled vehicle or vessel, or sailboat,
19 without consent of the owner or other person authorized to give consent.

20 (b) It is an affirmative defense to prosecution under this Section that the
21 defendant reasonably believed that the owner or other person authorized to give
22 consent would have consented to the operation had he known of it.

23 **§ 43.70. Reimbursement to Owner of Stolen Livestock or Agricultural**
24 **Products.**

25 In any case where there is a conviction under the provisions of Chapter 43 of this
26 Code and the property stolen by the defendant was livestock or agricultural product,
27 as that term is used in § 43.10(d) of this Article, in addition to a fine or imprisonment

1 imposed, the court shall direct that the defendant pay to the owner of the stolen
2 livestock its fair market value, or to the owner of the stolen agricultural product the
3 production costs and fair market value as determined by the court upon consultation
4 with the Department of Agriculture. Failure to make such payments shall be deemed
5 a failure to pay a fine and punished accordingly, which may include, but shall not be
6 limited to, the confiscation of a defendant's personal property such as the vehicle, or
7 vehicles, or any equipment used in the theft. If a defendant is found unable to pay
8 due to financial hardship, the court may require, but not be limited to: the auctioning
9 of all personal property confiscated in accordance with this Section, or the
10 performing of Alternative Community Service hours credited against the fine, or
11 reimbursement imposed, or both, pursuant to Article 6 of Chapter 80, Title 9, Guam
12 Code Annotated.

13 **§ 43.75. Theft of Dog or Cat, When a Felony of the Second Degree.**

14 It shall be theft punishable as a felony of the second degree, for any person:

15 (a) To steal any dog or cat for the purpose of or with the intent of holding the
16 same for ransom or a reward for the return thereof; or

17 (b) To demand payment of a reward, ransom, or any thing of value for the
18 return to the rightful owner of any dog or cat which is stolen, lost or strayed; or

19 (c) To refuse to return of a dog or a cat which is stolen, lost or strayed to the
20 rightful owner except upon payment of a reward or ransom; or

21 (d) To steal any dog or cat for the purposes of killing or maiming the same;

22 or

23 (e) To steal any dog for purpose of, or with intent of using the dog for any
24 dog fight or fight with any other animals which could result in injury to the dog.

1 *Premises of a Retail Mercantile Establishment* includes, but is not limited to, the
2 retail mercantile establishment; any common use areas in shopping centers and all
3 parking areas set aside by a merchant or on behalf of a merchant for the parking of
4 vehicles for the convenience of the patrons of such retail mercantile establishment.

5 **§ 43.89. Shopping Cart Defined.**

6 *Shopping Cart* means those push carts of the type or types which are commonly
7 provided by grocery stores, drug stores or other retail mercantile establishments for
8 the use of the public in transporting commodities in stores and markets and,
9 incidentally, from the stores to a place outside the store.

10 **§ 43.90. Under-Ring Defined.**

11 *Under-Ring* means to cause the cash register or other sales recording device to
12 reflect less than the full retail value of the merchandise.

13 **§ 43.91. Retail Theft; Defined.**

14 A person is guilty of *theft* if he knowingly:

15 (a) takes possession of, carries away, transfers or causes to be carried away
16 or transferred, any merchandise displayed, held, stored or offered for sale in a
17 retail mercantile establishment with the intention of retaining such merchandise
18 or with the intention of depriving the merchant permanently of the possession,
19 use or benefit of such merchandise without paying the full retail value of such
20 merchandise;

21 (b) alters, transfers or removes any label, price tag, marking, indicia of value
22 of any other markings which aid in determining value affixed to any merchandise
23 displayed, held, stored or offered for sale in a retail mercantile establishment
24 with the intention of depriving the merchant of the full retail value of such value
25 of merchandise;

26 (c) transfers any merchandise displayed, held, stored or offered for sale in a
27 retail mercantile establishment from the container in or on which such

1 merchandise is displayed to any other container with the intention of depriving
2 the merchant of the full retail value of such merchandise;

3 (d) under-rings with the intention of depriving the merchant of the full retail
4 value of the merchandise; or

5 (e) removes a shopping cart from the premises of a retail mercantile
6 establishment without the consent of the merchant given at the time of such
7 removal.

8 **§ 43.92. Presumptions.**

9 If any person:

10 (a) conceals upon his person or among his belongings, unpurchased
11 merchandise displayed, held, stored or offered for sale in a retail mercantile
12 establishment; and

13 (b) removes that merchandise beyond the last station for receiving payments
14 for that merchandise in that retail mercantile establishment, such person shall be
15 presumed to have possessed, carried away or transferred such merchandise with
16 the intention of retaining it or with the intention of depriving the merchant
17 permanently of the possession, use or benefit of such merchandise without
18 paying the full retail value of such merchandise.

19 **§ 43.93. Detention.**

20 Any merchant who has reasonable grounds to believe that a person has
21 committed retail theft may detain such person, on the premises of a retail mercantile
22 establishment, in a reasonable manner and for a reasonable length of time for all or
23 any of the following purposes:

24 (a) to request identification;

25 (b) to verify such identification;

1 (c) to make reasonable oral inquiry as to whether such person has in his
2 possession unpurchased merchandise and, to make reasonable investigation of
3 the ownership of such merchandise;

4 (d) to inform a peace officer of the detention of the person and surrender
5 custody of that person to a peace officer; or

6 (e) in the case of a minor, to immediately inform a peace officer and the
7 parents or guardian or other private person interested in the welfare of that minor
8 of this detention and to surrender custody of such minor to such person.

9 **§ 43.94. Affirmative Defense.**

10 A detention, as permitted in this Article, does not constitute an arrest or unlawful
11 restraint, as defined in § 22.35 of this Code, nor shall it render the merchant liable
12 to the person so detained unless said detention is done unreasonably or without
13 proper cause or justification.

14 **§ 43.94.1. Severability.**

15 If any part of this Article is declared invalid by a court, then the remainder of
16 this Article shall still be in effect.

17 **§ 43.95. Unlawful Use of Theft Detection Shielding *or* Deactivation Devices.**

18 This Section defines and penalizes the distribution *or* possession of a detection
19 shielding device *or* any tool *or* device designed to remove a theft detection device
20 from merchandise prior to purchase for the intent to commit (*or* aid *or* abet) theft.
21 A person who activates an anti-shoplifting device may be lawfully detained in a
22 reasonable manner for a reasonable period of time.

23 (a) A person is guilty of unlawful distribution of a theft detection shielding
24 device when he knowingly manufactures, sells, offers for sale *or* distributes in
25 any way any laminated *or* coated bag intended to shield merchandise from
26 detection by an electronic *or* magnetic theft detector.

1 (b) A person is guilty of unlawful possession of a theft detection shielding
2 device when he knowingly possesses any laminated *or* coated bag *or* device
3 intended to shield merchandise from detection by an electronic *or* magnetic theft
4 detector, with the intent to commit (*or* aid *or* abet) theft.

5 (c) A person is guilty of unlawful possession of a theft detection device
6 deactivator *or* remover when he knowingly possesses any tool *or* device
7 designed to allow *or* capable of allowing the deactivation *or* removal from any
8 merchandise of any theft detection device with the intent to use such tool *or*
9 device to deactivate any theft detection device on, *or* to remove any theft
10 detection device from, any merchandise without the permission of the merchant
11 *or* person owning *or* lawfully holding said merchandise.

12 (d) A person is guilty of unlawful distribution of a theft detection device
13 deactivator *or* remover when he knowingly manufacturers, sells, offers for sale
14 *or* distributes in any way any tool *or* device designed to allow, *or* capable of
15 allowing the deactivation *or* removal from any merchandise of any theft
16 detection device without the permission of the merchant *or* person owning *or*
17 lawfully holding said merchandise.

18 (e) A person is guilty of unlawful deactivation *or* removal of a theft detection
19 device when he intentionally deactivates in a retail establishment a theft
20 detection device on, *or* removes a theft detection device from, merchandise prior
21 to purchase.

22 (f) Any person convicted for violating the provisions of Subsections (a), (b),
23 (c), (d) *or* (e) of this Section where the value of the merchandise is *less than* Five
24 Hundred Dollars (\$500) is guilty of a petty misdemeanor. Any person convicted
25 for violating the provisions of Subsections (a), (b), (c), (d) *or* (e) of this Section
26 where the value of the merchandise is *more than* Five Hundred Dollars (\$500)
27 is guilty of a misdemeanor.

1 (g) The activation of an anti-shoplifting *or* inventory control device as a
2 result of a person exiting the establishment *or* a protected security device within
3 the area within the establishment *shall* constitute reasonable cause for the
4 detention of the person so exiting by the owner *or* operator of the establishment
5 *or* by an agent *or* employee of the owner *or* operator, provided notice has been
6 posted to advise the patrons that the establishment utilizes anti-shoplifting *or*
7 inventory control devices. Each such detention *shall* be made only in a
8 reasonable manner and only for a reasonable period of time sufficient for any
9 inquiry into the circumstances surrounding the activation of the device *or* for the
10 recovery of goods.

11 (h) Such taking into custody and detention by a law enforcement officer,
12 security officer, merchant, merchant's employee *or* agent, if done in compliance
13 with all the requirements of the foregoing Subsection, *shall* not render such law
14 enforcement officer, security officer, merchant, merchant's employee *or* agent,
15 criminally *or* civilly liable, including any liability for false arrest, false
16 imprisonment, unlawful detention, malicious prosecution, intentional infliction
17 of emotional distress *or* defamation.

18 ARTICLE 3

19 ANTI-SKIMMING ACT

20 § 43.96. Purpose.

21 This Article criminalizes the use of a scanning device *or* re-encoder to capture
22 encoded information from a magnetic strip from a credit, debit, *or* other payment
23 card and then places it on a different credit, debit, *or* other payment card with the
24 intent to defraud.

25 § 43.97. Short Title.

26 This Article *shall* be cited as the “Anti-Skimming Act.”

27 § 43.98. Definitions.

1 As used in this Article:

2 (a) *Scanning device* means a scanner, reader *or* any other electronic device
3 that is used to access, read, scan, obtain, memorize *or* store, temporarily *or*
4 permanently, information encoded on the magnetic strip *or* stripe of a payment
5 card.

6 (b) *Re-encoder* means an electronic device that places encoded information
7 from the magnetic strip *or* stripe of a payment card onto the magnetic strip *or*
8 stripe of a different payment card.

9 (c) *Payment card* means a credit card, charge card, debit card, hotel key card,
10 stored value card *or* any other card that is issued to an authorized card user and
11 that allows the user to obtain, purchase *or* receive goods, services, money *or*
12 anything else of value from a merchant.

13 (d) *Merchant* is defined as an owner *or* operator of any retail mercantile
14 establishment, *or* any agent, employee, lessee, consignee, officer, director,
15 franchisee *or* independent contractor of such owner *or* operator. A *merchant*
16 means a person who receives from an authorized user of a payment card *or*
17 someone the person believes to be an authorized user, a payment card *or*
18 information from a payment card *or* what the person believes to be a payment
19 card *or* information from a payment card as the instrument for obtaining,
20 purchasing *or* receiving goods, services, money *or* anything else of value from
21 the person.

22 (e) *Authorized card user* means any person with the empowerment,
23 permission *or* competence to act in the usage of any payment card to include,
24 but *not be limited to*, a credit card, debit card, hotel key card, stored value card
25 *or* any other card that allows the user to obtain, purchase *or* receive goods,
26 services, money *or* anything else of value from a merchant.

27 **§ 43.99. Penalties.**

1 (a) It is a felony of the third degree felony for a person to use:

2 (1) A scanning device to access, read, obtain, memorize *or* store, temporarily
3 or permanently, information encoded on the magnetic strip *or* stripe of a payment
4 card without the permission of the authorized user of the payment card and with
5 the intent to defraud the authorized user, the issuer of the authorized user's
6 payment card *or* a merchant.

7 (2) A re-encoder to place information encoded on the magnetic strip *or* stripe
8 of a payment card onto the magnetic strip *or* stripe of a different card without
9 the permission of the authorized user of the card from which the information is
10 being re-encoded and with the intent to defraud the authorized user, the issuer of
11 the authorized user's payment card *or* a merchant.

12 (b) Any person who violates subparagraph (a)(1) *or* (2) a second *or* subsequent
13 time commits a second degree felony.

14 **Section 18. Chapter 46, Title 9, Guam Code Annotated, is hereby *repealed***
15 ***and reenacted in its entirety as follows:***

16 **CHAPTER 46**

17 **FORGERY, FRAUDULENT PRACTICES & TELEPHONE RECORDS**

18 **ARTICLE**

19 **FORGERY AND FRAUDULENT PRACTICES**

20 **§ 46.10. Forgery; Defined & Punished.**

21 (a) A person is guilty of forgery if, with intent to defraud or injure anyone, or
22 with knowledge that he is facilitating a fraud or injury to be perpetrated by anyone,
23 he:

24 (1) falsely makes a written instrument by drawing a complete written
25 instrument in its entirety, or an incomplete written instrument, which purports to
26 be an authentic creation of its ostensible maker, but which is not either because

1 the ostensible maker is fictitious or because, if real, he did not authorize the
2 making or drawing thereof;

3 (2) falsely completes a written instrument by transforming through adding,
4 inserting or changing matter, an incomplete written instrument into a complete
5 one, without the authority of anyone entitled to grant it, so that the complete
6 written instrument falsely appears or purports to be in all respects an authentic
7 creation of its ostensible maker or authorized by him;

8 (3) falsely alters a written instrument by change, without authorization by
9 anyone entitled to grant it, of a written instrument, whether complete or
10 incomplete, by means of erasure, obliteration, deletion, insertion of new matter,
11 transposition of matter, or in any other manner, so that the instrument so altered
12 appears or purports to be in all respects an authentic creation of its ostensible
13 maker or authorized by him;

14 (4) induces another by deception to sign or execute a written instrument
15 which is not what it has been represented to be; or

16 (5) utters any written instrument which he knows to be forged in a manner
17 specified in Paragraphs (1), (2), (3) or (4).

18 (b) Written Instrument includes printing or any other method of recording
19 information, money, coins, tokens, tickets, stamps, seals, credit cards, badges,
20 trademarks and other symbols of value, right, privilege or identification.

21 (c) Forgery is a felony of the second degree if the writing is or purports to be
22 part of an issue of money, stamps, securities or other valuable instruments issued by
23 a government or governmental agency, or part of an issue of stock, bonds or other
24 instruments representing interests or claims against a corporate or other organization
25 or its property. Forgery is a felony of the third degree if the writing is or purports to
26 be a will, deed, contract, release, commercial instrument or other document

1 evidencing, creating, transferring, altering, terminating or otherwise affecting legal
2 relations. Otherwise forgery is a misdemeanor.

3 **§ 46.15. Criminal Simulation; Defined & Punished.**

4 A person commits a misdemeanor if, with intent to defraud anyone or with
5 knowledge that he is facilitating a fraud to be perpetrated by anyone, he makes, alters
6 or utters any object so that it appears to have value because of antiquity, rarity, source
7 or authorship which it does not possess.

8 **§ 46.20. Tampering With Recordable Documents; Defined & Punished.**

9 A person commits a felony of the third degree if, with intent to deceive or injure
10 anyone, he destroys, removes or conceals any will, deed, mortgage, security
11 instrument or other writing for which the law provides public recording.

12 **§ 46.25. Tampering With Records to Deceive or Conceal; Defined & Punished.**

13 A person commits a misdemeanor if, knowing that he has no privilege to do so,
14 he falsifies, destroys, removes or conceals any writing or record, with intent to
15 deceive or injure anyone or to conceal any wrongdoing.

16 **§ 46.30. Issuance of Dishonored Checks.**

17 (a) Definitions. For the purpose of this section, the following terms have the
18 meanings given them.

19 (1) *Check* means a check, draft, order of withdrawal, or similar negotiable or
20 nonnegotiable instrument.

21 (2) *Credit* means an arrangement or understanding with the drawee for the
22 payment of a check.

23 (b) Acts constituting. Whoever issues a check which, at the time of issuance, the
24 issuer intends shall not be paid, is guilty of issuing a dishonored check and may be
25 sentenced as provided in subsection (b)(1). In addition, restitution may be ordered
26 by the court.

1 (1) Penalties. A person who is convicted of issuing a dishonored check under
2 subsection (b) is:

3 (A) ~~guilty of a petty misdemeanor punishable by imprisonment for not~~
4 ~~more than sixty (60) days or by payment of a fine of not more than \$500, or~~
5 ~~both~~, if the value of the dishonored check, or checks aggregated under
6 paragraph (2), is not more than Five Hundred Dollars (\$500.00) ~~\$250~~; or

7 (B) ~~guilty of a misdemeanor punishable by imprisonment for not more~~
8 ~~than one (1) year, or by payment of a fine of not more than \$2,000, or both,~~
9 if the value of the dishonored check, or checks aggregated under paragraph
10 (2), is equal to or more than Five Hundred Dollars (\$500) but less than Two-
11 Thousand Five Hundred dollars (\$2,500.00) ~~\$250, but not more than \$1000~~;
12 or

13 (C) ~~guilty of a felony of the third degree punishable by imprisonment for~~
14 ~~not more than five (5) years, or by payment of a fine of not more than \$5,000,~~
15 ~~or both~~, if the value of the dishonored check, or checks aggregated under
16 paragraph (2), is equal to or more than \$2,500.00 but less than \$10,000.00.
17 ~~or more is more than \$1,000.~~

18 (D) guilty of a felony of the second degree if the value of the dishonored
19 check, or checks aggregated under paragraph (2), is \$10,000.00 or more.

20 (2) In a prosecution under this paragraph, the value of dishonored checks
21 issued by the defendant in violation of this subsection within any six-month
22 period may be aggregated and the defendant charged accordingly in applying
23 this section.

24 (c) Proof of intent. Any of the following is evidence sufficient to sustain a finding
25 that the person at the time the person issued the check intended it should not be paid:

26 (1) proof that, at the time of issuance, the issuer did not have an account with
27 the drawee;

1 (2) proof that, at the time of issuance, the issuer did not have sufficient funds
2 or credit with the drawee and that the issuer failed to pay the check within thirty
3 (30) days after mailing of notice of nonpayment or dishonor as provided in this
4 subsection; or

5 (3) proof that, when presentment was made within a reasonable time, the
6 issuer did not have sufficient funds or credit with the drawee and that the issuer
7 failed to pay the check within thirty (30) days after mailing of notice of
8 nonpayment or dishonor as provided in this subsection.

9 Notice of nonpayment or dishonor that includes a citation to this section shall be sent
10 by the payee or holder of the check to the maker or drawer by certified mail, return
11 receipt requested, or by regular mail, supported by an affidavit of service by mailing,
12 to the address printed on the check. Refusal by the maker or drawer of the check to
13 accept certified mail notice or failure to claim certified or regular mail notice is not
14 a defense that notice was not received.

15 The notice may state that unless the check is paid in full within thirty (30) days after
16 mailing of the notice of nonpayment or dishonor, the payee or holder of the check
17 will or may refer the matter to proper authorities for prosecution under this section.
18 An affidavit of service by mailing shall be retained by the payee or holder of the
19 check.

20 (d) Proof of lack of funds or credit. If the check has been protested, the notice of
21 protest is admissible as proof of presentation, nonpayment, and protest, and is
22 evidence sufficient to sustain a finding that there was a lack of funds or credit with
23 the drawee.

24 (e) Exceptions. This section does not apply to a postdated check or to a check
25 given for a past consideration, except a payroll check or a check issued to a fund for
26 employee benefits.

27 **§ 46.35. Fraudulent Use of Credit Cards; Defined & Punished.**

1 (a) A person commits an offense if he uses a credit card or the account number
2 of a credit card account with the intent of obtaining property or services with
3 knowledge that:

4 (1) the card or account number is stolen or forged;

5 (2) the card or account number has been revoked or cancelled; or

6 (3) for any other reason his use of the card is unauthorized.

7 (b) It is an affirmative defense to prosecution under Paragraph (3) of Subsection
8 (a) if the defendant proves by a preponderance of the evidence that he had the ability
9 and intended to meet all obligations to the issuer arising out of his use of the card.

10 (c) Credit card means a writing purporting to evidence an undertaking to pay for
11 property or services delivered or rendered to or upon the order of a designated person
12 or bearer.

13 (d) An offense under this Section is:

14 (1) A petty misdemeanor if the value of the property or services secured or
15 sought to be secured by means of the credit card is equal to or less than Five
16 Hundred Dollars (\$500.00);

17 (2) A misdemeanor if the value of the property or services secured or sought
18 to be secured by means of the credit card is greater than Five Hundred Dollars
19 (\$500.00) and less than Two-Thousand Five Hundred dollars (\$2,500.00);

20 (3) ~~a~~ A felony of the third degree if the value of the property or services
21 secured or sought to be secured by means of the credit card exceeds \$500
22 otherwise it is a misdemeanor is equal to or greater than Two Thousand Five
23 Hundred Dollars (\$2,500.00) and less than Ten Thousand Dollars (\$10,000.00);

24 (4) A felony of the second degree if the value of the property or services
25 secured or sought to be secured by means of the credit card is equal to or greater
26 than Ten Thousand Dollars (\$10,000.00).

27 **§ 46.40. Deceptive Business Practices; Defined & Punished.**

1 (a) A person commits a misdemeanor if in this course of business he:

2 (1) uses or possesses for a false weight or measure, or any other device for
3 falsely determining or recording any quality or quantity;

4 (2) sells, offers or exposes for sale, or delivers less than the represented
5 quantity of any commodity or service;

6 (3) takes or attempts to take more than the represented quantity of any
7 commodity or service when as buyer he furnishes the weight or measure;

8 (4) sells, offers or exposes for sale adulterated or mislabeled commodities.
9 “Adulterated” means varying from the standard of composition or quality
10 prescribed by or pursuant to any statute providing criminal penalties for such
11 variance or lawfully promulgated administrative regulation, or, if none, as set by
12 established commercial usage. “Mislabeled” means varying from the standard of
13 truth or disclosure in labeling prescribed by or pursuant to any statute providing
14 criminal penalties for such variance or lawfully promulgated administrative
15 regulations or, if none, as set by established commercial usage;

16 (5) makes a false or misleading statement in any advertisement addressed to
17 the public or to a substantial segment thereof with the intent of promoting the
18 purchase or sale of property or services;

19 (6) makes a false or misleading written statement with the intent of obtaining
20 property or credit; or

21 (7) makes a false or misleading written statement with the intent of
22 promoting the sale of securities, or omits information required by law to be
23 disclosed in written documents relating to securities.

24 (b) It is an affirmative defense to prosecution under Subsection (a) if the
25 defendant proves by a preponderance of the evidence that his conduct was not
26 knowingly or recklessly deceptive.

1 **§ 46.45. Bribery for Violation of Duty; Defined & Punished.**

2 (a) A person commits a misdemeanor if he solicits, accepts or agrees to accept
3 any benefit as consideration for knowingly violating or agreeing to violate a duty or
4 fidelity to which he is subject as:

5 (1) agent or employee of another;

6 (2) trustee, guardian, or other fiduciary;

7 (3) lawyer, physician, accountant, appraiser, or other professional adviser or
8 informant;

9 (4) officer, director, partner, manager or other participant in the direction of
10 the affairs of an incorporated or unincorporated association; or

11 (5) arbitrator or other purportedly disinterested adjudicator or referee.

12 (b) A person who holds himself out to the public as being engaged in the business
13 of making disinterested selection, appraisal, or criticism of commodities or services
14 commits a misdemeanor if he solicits, accepts or agrees to accept any benefit to
15 influence his selection, appraisal or criticism.

16 (c) A person commits a misdemeanor if he confers, or offers or agrees to confer,
17 any benefit the acceptance of which would be criminal under this Section.

18 ~~**§ 46.50. Rigging of Public Exhibitions; Defined; Failure to Report; Soliciting**~~
19 ~~**Punishment.**~~

20 ~~(a) A person commits a misdemeanor if, with intent to prevent a publicly~~
21 ~~exhibited contest from being conducted in accordance with the rules and usages~~
22 ~~purporting to govern it, he:~~

23 ~~(1) confers or offers or agrees to confer any benefit upon, or threatens any~~
24 ~~injury to a participant, official or other person associated with the contest or~~
25 ~~exhibition; or~~

26 ~~(2) tampers with any person, animal or thing.~~

1 ~~(b) A person commits a misdemeanor if he knowingly solicits, accepts or agrees~~
2 ~~to accept any benefit the giving of which would be criminal under Subsection (a).~~

3 ~~A person commits a petty misdemeanor if he fails to report, with reasonable~~
4 ~~promptness, a solicitation to accept any benefit or to do any tampering, the giving or~~
5 ~~doing of which would be criminal under Subsection (a).~~

6 **§ 46.55. Defrauding Creditors; Defined & Punished.**

7 (a) A person commits an offense, he:

8 (1) destroys, removes, conceals, encumbers, transfers or otherwise deals
9 with property subject to a security interest with intent to defeat enforcement of
10 that security interest;

11 (2) sells, assigns, exchanges, secretes, injures, destroys or otherwise disposes
12 of any property upon which he has previously executed a mortgage or any
13 instrument that operates as such, with intent to defraud the mortgages or a
14 purchaser thereof;

15 (3) secretes, removes, assigns, conveys or otherwise disposes of his property
16 with intent to defraud a judgment creditor or to prevent that property from being
17 made liable for the payment of his debts;

18 (4) with intent to defraud, buys, receives, conceals or aids in concealing
19 personal property, knowing it or any interest therein to be hired, leased or held
20 as collateral security; or

21 (5) Intentionally sells, mortgages, conveys, conceals or aids in concealing
22 personal property received by him upon a written conditional sale or lease
23 agreement, or any other written agreement by which it or any interest therein is
24 held as collateral security, before performance of any conditions precedent to
25 acquiring the title thereto (A) without the consent in writing of the conditional
26 seller, lessor or other holder of the security interest or (B) without disclosure to

1 any buyer or transferee of the existence and terms of the conditional sale, lease
2 or security agreement.

3 (b) An offense under this Section is a felony of the third degree if the value of
4 the property which is the subject of the offense exceeds Ten Thousand Dollars in
5 value. Otherwise the offense is a misdemeanor.

6 **§ 46.60. Fraud in Insolvency; Defined & Punished.**

7 (a) A person commits a misdemeanor, if, with intent to defraud a creditor and
8 with knowledge either that proceedings have been or are about to be instituted for
9 the appointment of an administrator or that a composition agreement or other
10 arrangement for the benefit of creditors has been or is about to be made, he:

11 (1) conveys, transfers, removes, conceals, destroys encumbers or otherwise
12 disposes of any part of or any interest in the debtor's estate;

13 (2) obtains any substantial part of or interest in the debtor's estate;

14 (3) presents to any creditor or to the administrator any writing or record
15 relating to the debtor's estate or to a creditor's claim, knowing the writing or
16 record to contain a false material statement;

17 (4) fails or refuses to disclose any information that he is required by law to
18 furnish to the administrator regarding the existence, amount or location of any
19 part of or any interest in the debtor's estate; or

20 (5) misrepresents any information furnished to the administrator regarding
21 the existence, amount or location of any part of or any interest in the debtor's
22 estate.

23 (b) As used in this Section, "administrator" means an assignee or trustee for the
24 benefit of creditors, a conservator, a receiver or any other person entitled to
25 administer property for the benefit of creditors.

26 **§ 46.65. Receiving Deposits in Failing Bank; Defined & Punished.**

1 (a) As used in this Section, financial institution means a bank, insurance
2 company, credit union, building and loan association, investment trust or other
3 organization held out to the public as a place of deposit of funds or medium of
4 savings or collective investment.

5 (b) An officer, manager or other person directing or participating in the direction
6 of a financial institution commits a misdemeanor if he receives or permits the receipt
7 of a deposit, premium payment or other investment in the institution knowing that:

8 (1) due to financial difficulties the institution is about to suspend operations
9 or go into receivership or reorganization; and

10 (2) the person making the deposit or other payment is unaware of the
11 precarious situation of the institution.

12 **§ 46.70. Misapplication of Entrusted Funds; Defined & Punished.**

13 (a) A person commits an offense if he applies or disposes of property that has
14 been entrusted to him as a fiduciary, or property of the government or of a financial
15 institution, in a manner which he knows is unlawful and involves substantial risk of
16 loss or detriment to the owner of the property or to a person for whose benefit the
17 property was entrusted.

18 (b) The offense is a misdemeanor if the amount involved exceeds \$50; otherwise
19 it is a petty misdemeanor.

20 (c) Fiduciary includes trustee, guardian, executor, administrator, receiver and
21 any person carrying on fiduciary functions on behalf of a corporation or other
22 organization which is a fiduciary.

23 (d) Financial institution has the meaning provided in Subsection (a) of § 46.65.

24 **§ 46.75. Procuring Execution of Financially Significant Instruments by Fraud,**
25 **Defined & Punished.**

26 A person commits a misdemeanor or if by deception he causes another to execute
27 any instrument affecting or likely to affect the pecuniary interest of any person.

1 **§ 46.80. Impersonation; Identity Theft; Defined & Punished.**

2 (a) A person commits an offense when that person:

3 (1) impersonates another or assumes a false identity and does an act in such
4 assumed character or false identity to obtain a benefit for oneself or another, or
5 to injure or defraud another;

6 (2) pretends to be a representative of some person or organization and does
7 an act in such pretended capacity with intent to obtain a benefit for oneself or for
8 another, or to injure or defraud another;

9 (3) impersonates another, assumes a false identity or makes a false or
10 misleading statement regarding the identity of any person, in an oral or written
11 application for services, for the purpose of obtaining services;

12 (4) possesses or obtains any personal identifying information pertaining to
13 another person, without the authorization of that person, and uses or attempts to
14 use that information, or assists another person in using the information, for any
15 unlawful purpose, including to:

16 (A) fraudulently obtain, or attempt to obtain, money, credit, goods,
17 services, anything of value, or medical information in the name of another
18 person;

19 (B) injure or defraud, or attempt to injure or defraud, another person;

20 (C) avoid, or attempt to avoid, the payment of debt or other legal
21 obligation; *or*

22 (D) avoid, or attempt to avoid, prosecution for a crime in the name of the
23 other person without the consent of that person.

24 (b) As used in this Section, *personal identifying information* means the name,
25 address, telephone number, driver's license or driver's license number, social
26 security card or social security number, passport or passport number, official
27 government of Guam or other state identification card or number, mother's maiden

1 name, demand deposit account number, savings account number, credit card or
2 credit card number, or a debit card or debit card number, or any name or number that
3 may be used, alone or in conjunction with any other information, to assume the
4 identity of a person. The list in this Subsection is *not* exhaustive.

5 (c) An offense under this Section is:

6 (1) A petty misdemeanor if the benefit obtained, or the injury or fraud
7 perpetrated on another, or the payment sought to be avoided, if any, is equal to
8 or less than Five Hundred Dollars (\$500.00).

9 (2) A misdemeanor if the benefit obtained, or the injury or fraud perpetrated
10 on another, or the payment sought to be avoided, if any, is greater than Five
11 Hundred Dollars (\$500.00) and less than Twenty-Five Hundred Dollars
12 (\$2,500.00).

13 (3) A felony of the third degree if the benefit obtained, or the injury or fraud
14 perpetrated on another, or the payment sought to be avoided, if any, is equal to
15 or greater than Twenty-Five Hundred Dollars (\$2,500.00) and less than Ten
16 Thousand Dollars (\$10,000.00).

17 (4). a felony of the second degree if the benefit obtained, or the injury or
18 fraud perpetrated on another, or the payment sought to be avoided, if any, is at
19 least Five Thousand Dollars (\$5,000.00); otherwise, it is a felony of the third
20 degree equal to or greater than Ten Thousand Dollars (\$10,000.00).

21 (d) A person found guilty of violating any provisions of this Section shall, in
22 addition to any other punishment, be ordered to make restitution for financial loss
23 sustained by a victim as a result of such violation. Financial loss may include any
24 costs incurred by such victim in correcting the credit history of such victim, or any
25 costs incurred in connection with any civil or administrative proceeding to satisfy
26 any debt or other obligation of such victim, including lost wages and attorney's fees.

1 (e) In any case in which a person obtains personal identifying information of
2 another person without the authorization of that person, and uses that information to
3 commit a crime in addition to a violation of Subsection (a), and is convicted of that
4 crime, the court records shall reflect that the person whose identity was falsely used
5 to commit the crime did *not* commit the crime.

6 **§ 46.85. Tampering with Vehicle Identification Number or Other Vehicle**
7 **Identifiers.**

8 A person commits a felony if he or she knowingly destroys, removes or conceals,
9 or attempts to destroy, remove or conceal, any Vehicle Identification number (VIN)
10 or other vehicle identifiers with intent to deceive or injure anyone or to conceal any
11 wrongdoing including littering violations.

12 **ARTICLE 2**

13 **TELEPHONE RECORDS; OBTAINING, SELLING, OR RECEIVING WITHOUT**
14 **CONSENT**

15 **§ 46.90. Definitions.**

16 As used in this Section:

17 (a) Caller Identification Record means a record that is delivered
18 electronically to the recipient of a telephone call simultaneously with the
19 reception of the telephone call and that indicates the telephone number from
20 which the telephone call was initiated *or* similar information regarding the
21 telephone call.

22 (b) Customer means a person who subscribes to telephone service.

23 (c) Telephone Record means a record in written, electronic or oral form,
24 except a caller identification record and subscriber list information that is created
25 by a telephone service provider and that contains any of the following
26 information with respect to a customer:

27 (1) Telephone numbers that have been dialed by the customer.

1 (2) Telephone numbers pertaining to calls made to the customer.

2 (3) The time when calls were made by the customer *or* to the customer.

3 (4) The duration of calls made by the customer *or* to the customer.

4 (5) The location(s) from which calls were initiated by the customer *or*
5 received from the customer.

6 (d) Telephone Service means the conveyance of two (2)-way voice
7 communication in analog, digital *or* other form by any medium, including wire,
8 cable, fiber optics, cellular, broadband personal communications services *or*
9 other wireless technologies, satellite, microwave *or* at any frequency over any
10 part of the electromagnetic spectrum. Telephone service includes the
11 conveyance of voice communication over the Internet and telephone relay
12 service.

13 (e) Telephone Service Provider means a person who provides telephone
14 service to a customer.

15 **§ 46.91. Prohibition on Use of Telephone Records.**

16 No person may do any of the following:

17 (a) Obtain, attempt to obtain or conspire with another to obtain a telephone
18 record that pertains to a customer who is a resident of Guam, without the
19 customer's consent by doing any of the following:

20 (1) Making a false *or* deceptive statement to an employee, representative
21 or agent of a telephone service provider.

22 (2) Making a false or deceptive statement to a customer of a telephone
23 service provider.

24 (3) Accessing such customer's telephone record via the Internet.

25 (4) Knowingly providing to a telephone service provider a document that
26 is fraudulent, that has been lost or stolen or that has been obtained by fraud
27 *or* contains a false, fictitious or fraudulent statement *or* representation.

1 (b) Ask another person to obtain a telephone record knowing that the person
2 will obtain the telephone record in a manner prohibited under this Section.

3 (c) Sell or offer to sell a telephone record obtained in a manner prohibited
4 under this Section.

5 **§ 46.92. Penalties:**

6 (a) A person who violates this Section is guilty of a third degree felony, a fine
7 not to exceed Ten Thousand Dollars (\$10,000) or imprisonment not to exceed three
8 (3) years or both, if the violation involves one (1) telephone record.

9 (b) A person who violates this Section is guilty of a second degree felony, a fine
10 not to exceed Twenty-five Thousand Dollars (\$25,000) or imprisonment not to
11 exceed ten (10) years or both, if the violation involves two (2) or more telephone
12 records.

13 (c) A person who violates this Section is guilty of a third degree felony, a fine
14 not to exceed Fifty Thousand Dollars (\$50,000) or imprisonment not to exceed
15 fifteen (15) years or both, if the violation involves more than ten (10) telephone
16 records.

17 **§ 46.93. Additional Penalties.**

18 (a) In addition to the penalties authorized under § 46.92, a person who violates
19 this Section may be required to forfeit personal property used or intended to be used
20 in the violation.

21 (b) In an action to enforce this Section, the court shall award to a person who is
22 the subject of a telephone record involved in a violation of this Section all of the
23 following:

24 (1) The amount of the person's pecuniary loss suffered because of a violation
25 of this Section, *if* proof of the loss is submitted to the satisfaction of the court or
26 One Thousand Dollars (\$1,000), whichever is greater.

27 (2) The amount of any gain to the violator as a result of the violation.

1 **§ 46.94. Exceptions.**

2 This Section does not apply to any of the following:

3 (a) Action by a law enforcement agency in connection with the official duties
4 of the law enforcement agency.

5 (b) A disclosure by a telephone service provider, if any, of the following
6 applies:

7 (1) The telephone service provider reasonably believes the disclosure is
8 necessary to do any of the following:

9 (A) Provide telephone service to a customer.

10 (B) Protect an individual or the telephone service provider from
11 fraudulent, abusive or unlawful use of telephone service or a telephone
12 record.

13 (2) The disclosure is made to the National Center for Missing and
14 Exploited Children.

15 (3) The disclosure is authorized by Guam or federal law or regulation.

16 (4) The disclosure is related to testing the security procedures or systems
17 of the telephone service provider for maintaining the confidentiality of
18 customer information.

19 (5) The disclosure is to a government entity, if the telephone company
20 provider reasonably believes that an emergency involving immediate danger
21 of death or serious physical injury to any person justifies disclosure of the
22 information.

23 (6) The disclosure is in connection with the sale or transfer of all or part
24 of its business or the purchase or acquisition of a portion or all of a business
25 or the migration of a customer from one (1) carrier to another.

1 (c) A disclosure pursuant to § 46.94 (b), if such disclosure is made
2 reasonably and in good faith, notwithstanding any later determination that such
3 action was not in fact authorized.

4 **ARTICLE 3**

5 **MORTGAGE FRAUD**

6 **§ 46.100. Title.**

7 This Act may be cited as the Mortgage Fraud Act.

8 **§ 46.101. Definitions.**

9 As used in this Act:

10 (a) Mortgage lending process means the process through which a person
11 seeks or obtains a mortgage loan, including solicitation, application, or
12 origination, negotiation of terms, third-party provider services, underwriting,
13 signing and closing, and funding of the loan.

14 (b) Mortgage loan:

15 (1) means a loan or agreement made to extend credit to a person when
16 the loan is secured by a deed, security deed, mortgage, security interest, deed
17 of trust, or other document representing a security interest or lien upon any
18 interest in one (1)-to-four (4) family residential property;

19 (2) includes the renewal or refinancing of any loan; and

20 (3) includes home equity loans.

21 (c) Unlawful activity means to directly engage in conduct or to solicit,
22 request, command, encourage, or intentionally aid another person to engage in
23 conduct which would constitute any offense described by the following crimes
24 or categories of crimes, or to attempt or conspire to engage in an act which would
25 constitute any of those offenses, regardless of whether the act is in fact charged
26 or indicted by any authority or is classified as a misdemeanor or a felony

1 (d) Pattern of unlawful activity means engaging in conduct which constitute
2 the commission of at least three (3) episodes of unlawful activity, which episodes
3 are not isolated, but have the same or similar purposes, results, participants,
4 victims, or methods of commission, or otherwise are interrelated by
5 distinguishing characteristics. Taken together, the episodes shall demonstrate
6 continuing unlawful conduct and be related either to each other or to the
7 enterprise. The most recent act constituting part of a pattern of unlawful activity
8 as defined by this part shall have occurred within five (5) years of the
9 commission of the next preceding act alleged as part of the pattern.

10 (e) Sensitive personal identifying information means any of the following
11 information regarding an individual's:

12 (1) Social Security number;

13 (2) driver license number or other government issued identification
14 number;

15 (3) financial account number or credit or debit card number;

16 (4) password or personal identification number or other identification
17 required to gain access to a financial account or a secure website;

18 (5) automated or electronic signature;

19 (6) unique biometric data; and

20 (7) any other information that can be used to gain access to an
21 individual's financial accounts or to obtain goods or services.

22 (f) Value means the value of the property, money, or thing obtained or sought
23 to be obtained.

24 (g) Person includes any individual or entity capable of holding a legal or
25 beneficial interest in property, including governmental entities.

26 (h) Obtain means to come into possession of, get, acquire or procure.

27 **§ 46.102. Mortgage Fraud.**

1 (a) A person commits the offense of mortgage fraud if the person does any of
2 the following with the intent to defraud:

3 (1) knowingly makes any material misstatement, misrepresentation, or
4 omission during the mortgage lending process, intending that it be relied upon
5 by a mortgage lender, borrower, or any other party to the mortgage lending
6 process;

7 (2) knowingly uses or facilitates the use of any material misstatement
8 misrepresentation, or omission, during the mortgage lending process, intending
9 that it be relied upon by a mortgage lender, borrower, or any other party to the
10 mortgage lending process;

11 (3) files or causes to be filed with the Department of Land Management any
12 document that the person knows contains a material misstatement,
13 misrepresentation, or omission; or

14 (4) receives any proceeds or any compensation in connection with a
15 mortgage loan that the person knows resulted from a violation of this Section.

16 (b) Notwithstanding any other administrative, civil, or criminal penalties, a
17 person who violates Section 46.102(a) is guilty of a second degree felony.

18 **§ 46.103. Classification of Offense.**

19 (a) Notwithstanding any other administrative, civil, or criminal penalties, a
20 person who violates § 46.102 of this Chapter is guilty of a:

21 ~~(1) misdemeanor when the value is or exceeds Three Hundred Dollars (\$300)~~
22 ~~but is less than One Thousand Dollars (\$1,000);~~

23 ~~(2) third degree felony when the value is or exceeds One Thousand Dollars~~
24 ~~(\$1,000) but is less than Five Thousand Dollars (\$5,000);~~

25 ~~(3) second degree felony, when the value is or exceeds Five Thousand~~
26 ~~Dollars (\$5,000);~~

1 ~~(4) second degree felony when the object or purpose of the commission of~~
2 ~~an act of mortgage fraud is other than the obtaining of something of monetary~~
3 ~~value; and~~

4 ~~(5) second degree felony when the object or purpose of the commission of~~
5 ~~an act of mortgage fraud is the obtaining of sensitive personal identifying~~
6 ~~information, regardless of the value.~~

7 ~~(6) The determination of the degree of any offense under this Subsection (a)~~
8 ~~is measured by the total value of all property, money, or things obtained or~~
9 ~~sought to be obtained by a violation of §46.102 of this Chapter, except as~~
10 ~~provided in Subsections (a)(4) and (5).~~

11 (b) Each residential or commercial property transaction offense under this part
12 constitutes a separate violation.

13 ~~§ 46.104. Mortgage Fraud Prosecutor and Investigators.~~

14 ~~(a) The Attorney General may employ:~~

15 ~~(1) An attorney licensed to practice law who:~~

16 ~~(A) has knowledge of the law related to mortgage fraud; and~~

17 ~~(B) if possible, has a background or expertise in investigating and~~
18 ~~prosecuting mortgage fraud.~~

19 ~~(2) At least two (2) investigators who have a background or expertise in~~
20 ~~investigating mortgage fraud.~~

21 ~~(3) The attorney employed under Subsection (a) (1) has as that attorney's~~
22 ~~primary responsibility the prosecution of mortgage fraud.~~

23 ~~(4) Each person employed under Subsection (b) shall have as that person's~~
24 ~~primary responsibility the investigation of mortgage fraud.~~

25 ~~(5) clerks, interns, or other personnel to assist the attorney employed under~~
26 ~~Subsection (a) (1).~~

27 **ARTICLE 4**

1 (d) false pretenses means the representation of a fact or circumstance which
2 is not true and is calculated to mislead;

3 (e) webpage means a location that has a single uniform resource locator
4 (URL) with respect to the world wide web, or another location that can be
5 accessed on the internet.

6 **§ 46.403. Phishing and Pharming.**

7 (a) Phishing. For the purposes of this Article 4, an individual or entity is guilty
8 of phishing if, with intent to defraud or injure an individual, or with knowledge that
9 he is facilitating a fraud or injury to be perpetrated by anyone:

10 (1) the actor makes any communication under false pretenses purporting to
11 be by or on behalf of a legitimate business, without the authority or approval of
12 the business; and

13 (2) the actor uses that communication to induce, request, or solicit any person
14 to provide identifying information or property.

15 (b) Pharming. For the purposes of this Article 4, an individual or entity is guilty
16 of pharming if, with intent to defraud or injure an individual, or with knowledge that
17 he is facilitating a fraud or injury to be perpetrated by anyone:

18 (1) creates or operates a webpage that represents itself as belonging to or
19 being associated with a legitimate business, without the authority or approval of
20 such business, and that may induce any user of the internet to provide identifying
21 information or property; or

22 (2) alters a setting on a user's computer or similar device or software
23 program through which the user may search the internet and thereby causes any
24 user of the internet to view a communication that represents itself as belonging
25 to or being associated with a legitimate business, which message has been
26 created or is operated without the authority or approval of such legitimate

1 business and induces, requests or solicits any user of the internet to provide
2 identifying information or property.

3 **§ 46.404. Immunity for Disabling Phishing and Pharming Sites.**

4 No internet registrar or internet service provider may be held liable under any
5 provision of the laws of Guam for removing or disabling access to an internet domain
6 name controlled or operated by such registrar or by such provider, or to content that
7 resides on an internet website or other online location controlled or operated by such
8 provider, and that such provider believes in good faith is used to engage in a violation
9 of this Act.

10 **§ 46.405. Violations.**

11 (a) A person who violates this Act is guilty of a third degree felony, and is subject
12 to a fine not to exceed Five Thousand Dollars (\$5,000), or imprisonment not to
13 exceed five (5) years, or both.

14 (b) The following persons may bring a civil action against a person who violates
15 this Act:

16 (1) an internet service provider who is adversely affected by the violation;

17 (2) an owner of a webpage, computer server, or a trademark that is used
18 without authorization in the violation; or

19 (3) the Attorney General.

20 (c) Except as provided by paragraph 3, a person permitted to bring a civil action
21 may obtain either actual damages for a violation of this Act, or a civil penalty not to
22 exceed One Hundred Fifty Thousand Dollars (\$150,000) per violation of this Act.

23 **§ 46.406. Applicability.**

24 This Act shall apply to the discovery of a phishing or pharming incident that
25 occurs on or after the effective date of this Act. This Act does not apply to a
26 telecommunications provider's or internet service provider's good faith transmission

1 or routing of, or intermediate temporary storing or caching of, identifying
2 information.

3 If any provision of this Act or its application to any person or circumstance is
4 found to be invalid or contrary to law, such invalidity shall not affect other provisions
5 or application of this Act which can be given effect without the invalid provisions
6 or application, and to this end the provisions of this Act are severable.

7 **§ 46.408. Effective Date.**

8 This Act shall take effect one hundred twenty (120) days after the date of
9 enactment.

10 **ARTICLE 5**

11 **COMPUTER PROTECTION ACT**

12 **§ 46.501. Legislative Intent.**

13 It is the intent of I Liheslaturan Guåhan to prohibit a person from using specified
14 protected computers to relay or retransmit commercial electronic mail messages with
15 the intent to deceive or mislead recipients, or an electronic mail service provider
16 under specified circumstances; to prohibit a person from materially falsifying header
17 information in commercial electronic mail messages under specified circumstances;
18 to prohibit a person from registering for electronic mail accounts or domain names
19 under specified circumstances; and to provide for specified penalties and fines.

20 **§ 46.502. Definitions.**

21 In this Act, the following words have the meanings indicated:

22 (a) commercial electronic mail message means an electronic message sent
23 primarily for the purpose of commercial advertisement or promotion of:

24 (1) a commercial product;

25 (2) a commercial service;

26 (3) the content on an Internet website; or

27 (4) a website operated for a commercial purpose;

1 (b) domain name means any alphanumeric designation that is registered with
2 or assigned by a domain name registrar, domain name registry, or other domain
3 name registration authority as part of an electronic mail address on the internet;

4 (c) electronic mail service provider means any person, including an internet
5 service provider, that is an intermediary in sending and receiving electronic mail,
6 and that provides to the public the ability to send or receive electronic mail to or
7 from an electronic mail account or online user account;

8 (d) financial institution means any financial institution of the type supervised
9 under 11GCA, whether or not locally-chartered;

10 (e) header information means the source, destination, and routing
11 information attached to an electronic mail message, including the originating
12 domain name and originating electronic mails, and any other information that
13 appears in the line identifying or purporting to identify a person initiating the
14 message, and technical information that authenticates the sender of an electronic
15 mail message for network security or network management purposes;

16 (f) the term initiate, when used with respect to a commercial electronic mail
17 message, means to originate or transmit the message or to procure the origination
18 or transmission of the message, and does not include actions that constitute
19 routine conveyances of such message;

20 (g) internet means the international computer network of both federal and
21 nonfederal interoperable packet switched data networks;

22 (h) internet protocol address means the string of numbers by which a location
23 on the internet is identified by routers or other computers connected to the
24 internet;

25 (i) materially falsified means altered or concealed in a manner that would
26 impair the ability of one of the following to identify, locate, or respond to a

1 person who initiated an electronic mail message or to investigate an alleged
2 violation of this Act:

3 (1) a recipient of the message;

4 (2) an internet access service processing the message on behalf of a
5 recipient;

6 (3) a person alleging a violation of this Act; or

7 (4) a law enforcement agency;

8 (j) multiple means:

9 (1) more than ten (10) commercial electronic mail messages during a
10 twenty four (24)-hour period;

11 (2) more than one hundred (100) commercial electronic mail messages
12 during a thirty (30)-day period; or

13 (3) more than one thousand (1,000) commercial electronic mail
14 messages during a one (1)-year period;

15 (k) protected computer means a computer used in intrastate or interstate
16 communication;

17 (l) routine conveyance means the transmission, routing, relaying, handling,
18 or storing, through an automatic technical process, of an electronic mail message
19 for which another person has identified the recipients or provided the recipients'
20 addresses.

21 **§ 46.503. Violations.**

22 A person may not conspire to or knowingly:

23 (a) use a protected computer of another to relay or retransmit multiple
24 commercial electronic mail messages with the intent to deceive or mislead
25 recipients or an electronic mail service provider as to the origin of the message;

26 (b) materially falsify header information in multiple commercial electronic
27 mail messages and intentionally initiate the transmission of the messages;

1 (c) register, using information that materially falsifies the identity of the
2 actual registrant, for fifteen (15) or more electronic mail accounts or on-line user
3 accounts of two or more domain names, and intentionally initiate the
4 transmission of multiple commercial electronic mail messages from one or any
5 combination of accounts or domain names;

6 (d) falsely represent the right to use five (5) or more internet protocol
7 addresses and intentionally initiate the transmission of multiple commercial
8 electronic mail messages from the internet protocol addresses;

9 (e) access a protected computer of another without authorization, and
10 intentionally initiate the transmission of multiple electronic mail advertisements
11 from or through the protected computer;

12 (f) violate Subsections (a), (b), (c), (d) or (e) of this Section by providing or
13 selecting addresses to which a message was transmitted, knowing that:

14 (1) the electronic mail addresses of the recipients were obtained using an
15 automated means from an internet website or proprietary online service
16 operated by another person; and

17 (2) the website or online service included, at the time the addresses were
18 obtained, a notice stating that the operator of the website or online service
19 will not transfer addresses maintained by the website or online service to any
20 other party for the purposes of initiating or enabling others to initiate
21 electronic mail messages; or

22 (g) violate Subsections (a), (b), (c), (d) or (e) of this Section by providing or
23 selecting electronic mail addresses of recipients obtained using an automated
24 means that generates possible electronic mail addresses by combining names,
25 letters, or numbers into numerous permutations.

1 **§ 46.504. Penalties.**

2 (a) A person who violates § 46.503 (a), (b), (c), (d) or (e) is guilty of a third
3 degree felony, ~~and upon conviction is subject to imprisonment not to exceed three~~
4 ~~(3) years or a fine not to exceed Five Thousand Dollars (\$5,000), or both.~~

5 (b) A person who violates § 46.503 (a), (b), (c), (d) or (e) involving the
6 transmission of more than two hundred fifty (250) commercial electronic mail
7 messages during a twenty-four (24) hour period; two thousand five hundred (2,500)
8 commercial electronic mail messages during any thirty (30)-day period; or twenty
9 five thousand (25,000) commercial electronic mail messages during any one (1)-
10 year period is guilty of a second degree felony, ~~and upon conviction is subject to~~
11 ~~imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand~~
12 ~~Dollars (\$10,000), or both.~~

13 (c) A person who violates § 46.503 (c) or (d) involving twenty (20) or more
14 electronic mail accounts, or ten (10) or more domain names, and intentionally
15 initiates the transmission of multiple commercial electronic mail messages from the
16 accounts or using the domain names is guilty of a second degree felony, ~~and upon~~
17 ~~conviction is subject to imprisonment not to exceed five (5) years or a fine not to~~
18 ~~exceed Ten Thousand Dollars (\$10,000), or both.~~

19 (d) A person who violates § 46.503 (a), (b), (c), (d) or (e) that causes a loss of
20 One Thousand Dollars (\$1,000) or more during any one (1)-year period is guilty of
21 a third degree felony, ~~and upon conviction is subject to imprisonment not to exceed~~
22 ~~three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000), or both.~~

23 (e) A person who violates § 46.503 (a), (b), (c), (d) or (e) in concert with three
24 (3) or more other persons as the leader or organizer of the action that constitutes the
25 violation is guilty of a second degree felony, ~~and upon conviction is subject to~~
26 ~~imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand~~
27 ~~Dollars (\$10,000), or both.~~

1 (f) A person who violates § 46.503 (a), (b), (c), (d) or (e) in furtherance of a
2 felony, or who has previously been convicted of an offense under the laws of Guam,
3 another state, or under any federal law involving the transmission of multiple
4 commercial electronic mail messages is guilty of a second degree felony, ~~and upon~~
5 ~~conviction is subject to imprisonment not to exceed ten (10) years or a fine not to~~
6 ~~exceed Twenty Five Thousand Dollars (\$25,000), or both.~~

7 (g) A person who violates § 46.503 (f) or (g) is guilty of a misdemeanor felony,
8 ~~and upon conviction is subject to imprisonment not to exceed one (1) year or a fine~~
9 ~~not to exceed Five Thousand Dollars (\$1,000), or both.~~

10 **§ 46.506. Civil Action by Attorney General.**

11 (a) An action brought under this Subsection shall be commenced within two (2)
12 years after the commission of the act.

13 (b) The Attorney General may institute a civil action against a person who
14 violates § 46.503 to recover a civil penalty not to exceed:

15 (1) \$25,000 per day of violation; or

16 (2) not less than Two Dollars (\$2.00) nor more than Eight Dollars (\$8.00)
17 per commercial electronic mail message initiated in violation of § 46.503.

18 (3) For any violation of this Act, the amount determined under paragraph (b)
19 may not exceed Two Million Dollars (\$2,000,000).

20 (c) The Attorney General may seek an injunction in a civil action to prohibit a
21 person who has engaged in or is engaged in a violation of § 46.503 from engaging
22 in the violation.

23 (d) The Attorney General may enforce criminal violations of this Act.

24 **§ 46.507. Lawfulness of Electronic Mail Service Provider Policies.**

25 Nothing in this Act shall be construed to have any effect on the lawfulness of the
26 adoption, implementation, or enforcement by an electronic mail service provider of

1 a policy of declining to transmit, route, relay, handle, or store certain types of
2 electronic mail messages under any other provision of law.

3 **§ 46.508. Severability.**

4 If any provision of this Act or its application to any person or circumstance is
5 found to be invalid or contrary to law, such invalidity shall not affect other provisions
6 or application of this Act which can be given effect without the invalid provisions
7 or application, and to this end the provisions of this Act are severable.

8 **ARTICLE 6**

9 **COMPUTER SPYWARE PROTECTION ACT**

10 **§ 46.601. Title.**

11 This Act may be cited as the “Computer Spyware Protection Act.”

12 **§ 46.602. Legislative Findings and Intent.**

13 I Liheslaturan Guåhan finds that spyware is a problem that adversely affects
14 nearly every computer connected to the internet. Spyware is a catch-all term for
15 computer programs that can track computer users’ movements online. There are
16 hundreds of programs that range from innocuous “ad-ware,” which generates pop-
17 up advertisements, to more dangerous programs that can record a user’s keystrokes
18 to gather personal information, such as credit card numbers and passwords, without
19 their knowledge, and forward this information to another entity without the
20 consumer’s consent. Spyware is a serious problem that can create substantial privacy
21 risks, increase the risk of identity theft, and cause serious degradation to personal
22 and business computers that can cost millions of dollars in lost productivity.

23 It is the intent of I Liheslatura to protect owners and operators of computers on
24 Guam from the use of spyware and malware that is deceptively or surreptitiously
25 installed on the owner’s or the operator’s computer.

1 **§ 46.603. Definitions.**

2 (a) Cause to be copied means to distribute or transfer computer software, or any
3 component thereof. Such term shall not include providing:

4 (1) a transmission, routing, provision of intermediate temporary storage, or
5 caching of software;

6 (2) a storage or hosting medium, such as a compact disk, website, or
7 computer server through which the software was distributed by a third party; or

8 (3) an information location tool, such as a directory, index, reference,
9 pointer, or hypertext link, through which the user of the computer located the
10 software.

11 (b) Computer software means a sequence of instructions written in any
12 programming language that is executed on a computer. Computer software does not
13 include a data component of a web page that is not executable independently of the
14 web page.

15 (c) Computer virus means a computer program or other set of instructions that is
16 designed to degrade the performance of, or disable, a computer or computer network,
17 and is designed to have the ability to replicate itself on other computers or computer
18 networks without the authorization of the owners of those computers or computer
19 networks.

20 (d) Damage means any significant impairment to the integrity or availability of
21 data, software, a system, or information.

22 (e) Execute, when used with respect to computer software, means the
23 performance of the functions or the carrying out of the instructions of the computer
24 software.

25 (f) Intentionally deceptive means any of the following:

26 (1) an intentionally and materially false or fraudulent statement;

1 (2) a statement or description that intentionally omits or misrepresents
2 material information in order to deceive an owner or operator of a computer; or

3 (3) an intentional and material failure to provide a notice to an owner or
4 operator regarding the installation or execution of computer software for the
5 purpose of deceiving the owner or operator.

6 (g) Internet means the global information system that is logically linked together
7 by a globally unique address space based on the internet protocol (IP), or its
8 subsequent extensions, and that is able to support communications using the
9 transmission control protocol/internet protocol (TCP/IP) suite, or its subsequent
10 extensions, or other IP-compatible protocols, and that provides, uses, or makes
11 accessible, either publicly or privately, high-level services layered on the
12 communications and related infrastructure described in this Subsection.

13 (h) Owner or operator means the owner or lessee of a computer, or a person using
14 such computer with the owner or lessee's authorization, but does not include a
15 person who owned a computer prior to the first retail sale of the computer.

16 (i) Message means a graphical or text communication presented to an authorized
17 user of a computer.

18 (j) Person means any individual, partnership, corporation, limited liability
19 company, or other organization, or any combination thereof.

20 (k) Personally identifiable information means any of the following information
21 if it allows the entity holding the information to identify the owner or operator of a
22 computer:

23 (1) the first name or first initial in combination with the last name;

24 (2) a home or other physical address including street name;

25 (3) a personal identification code in conjunction with a password required to
26 access an identified account, other than a password, personal identification

1 number or other identification number transmitted by an authorized user to the
2 issuer of the account or its agent;

3 (4) a social security number, tax identification number, driver's license
4 number, passport number, or any other government-issued identification
5 number; or

6 (5) an account balance, overdraft history, or payment history that personally
7 identifies an owner or operator of a computer.

8 **§ 46.604. Prohibitions, Use of Software.**

9 It is unlawful for a person who is not an owner or operator of a computer to cause
10 computer software to be copied on such computer knowingly or with conscious
11 avoidance of actual knowledge or willfully, and to use such software to do any of
12 the following:

13 (a) modify, through intentionally deceptive means, settings of a computer
14 that control any of the following:

15 (1) the web page that appears when an owner or operator launches an
16 internet browser or similar computer software used to access and navigate
17 the internet;

18 (2) the default provider or web proxy that an owner or operator uses to
19 access or search the internet; or

20 (3) an owner's or an operator's list of bookmarks used to access web
21 pages;

22 (b) collect, through intentionally deceptive means, personally identifiable
23 information through any of the following means:

24 (1) the use of a keystroke-logging function that records all or
25 substantially all keystrokes made by an owner or operator of a computer and
26 transfers that information from the computer to another person;

1 (2) in a manner that correlates personally identifiable information with
2 data regarding all or substantially all of the websites visited by an owner or
3 operator, other than websites operated by the person providing such
4 software, if the computer software was installed in a manner designed to
5 conceal from all authorized users of the computer the fact that the software
6 is being installed;

7 (3) by extracting from the hard drive of an owner's or an operator's
8 computer, an owner's or an operator's social security number, tax
9 identification number, driver's license number, passport number, any other
10 government-issued identification number, account balances, or overdraft
11 history for a purpose unrelated to any of the purposes of the software or
12 service described to an authorized user;

13 (c) prevent, through intentionally deceptive means, an owner's or an
14 operator's reasonable efforts to block the installation of or execution of, or to
15 disable, computer software by causing computer software that the owner or
16 operator has properly removed or disabled to automatically reinstall or reactivate
17 on the computer without the authorization of an authorized user;

18 (d) intentionally misrepresent that computer software will be uninstalled or
19 disabled by an owner's or an operator's action;

20 (e) through intentionally deceptive means, remove, disable, or render
21 inoperative security, antispyware, or antivirus computer software installed on an
22 owner's or an operator's computer;

23 (f) enable use of an owner's or an operator's computer to do any of the
24 following:

25 (1) accessing or using a modem or internet service for the purpose of
26 causing damage to an owner's or an operator's computer, or causing an

1 owner or operator, or a third party affected by such conduct to incur financial
2 charges for a service that the owner or operator did not authorize;

3 (2) opening multiple, sequential, stand-alone messages in an owner's or
4 an operator's computer without the authorization of an owner or operator,
5 and with knowledge that a reasonable computer user could not close the
6 messages without turning off the computer or closing the software
7 application in which the messages appear; provided, that this Subsection
8 shall not apply to communications originated by the computer's operating
9 system, originated by a software application that the user chooses to activate,
10 originated by a service provider that the user chooses to use, or presented for
11 any of the purposes described in §46.606;

12 (3) transmitting or relaying commercial electronic mail or a computer
13 virus from the computer, where the transmission or relaying is initiated by a
14 person other than the authorized user and without the authorization of an
15 authorized user;

16 (g) modify any of the following settings related the computer's access to, or
17 use of, the internet:

18 (1) settings that protect information about an owner or operator for the
19 purpose of taking personally identifiable information of the owner or
20 operator;

21 (2) security settings for the purpose of causing damage to a computer; or

22 (3) settings that protect the computer from the uses identified in
23 Subsection (f) of this Section.

24 (h) prevent, without the authorization of an owner or operator, an owner's or
25 an operator's reasonable efforts to block the installation of, or to disable,
26 computer software by doing any of the following:

1 (1) presenting the owner or operator with an option to decline installation
2 of computer software with knowledge that, when the option is selected by
3 the authorized user, the installation nevertheless proceeds;

4 (2) falsely representing that computer software has been disabled;

5 (3) requiring in an intentionally deceptive manner the user to access the
6 internet to remove the software with knowledge or reckless disregard of the
7 fact that the software frequently operates in a manner that prevents the user
8 from accessing the internet;

9 (4) changing the name, location or other designation information of the
10 software for the purpose of preventing an authorized user from locating the
11 software to remove it;

12 (5) using randomized or intentionally deceptive filenames, directory
13 folders, formats, or registry entries for the purpose of avoiding detection and
14 removal of the software by an authorized user;

15 (6) causing the installation of software in a particular computer directory
16 or computer memory for the purpose of evading authorized users' attempts
17 to remove the software from the computer; or

18 (7) requiring, without the authority of the owner of the computer, that an
19 authorized user obtain a special code or download software from a third party
20 to uninstall the software.

21 **§ 46.605. Other Prohibitions.**

22 It is unlawful for a person who is not an owner or operator of a computer to do
23 any of the following with regard to the computer:

24 (a) induce an owner or operator to install a computer software component
25 onto the owner's or the operator's computer by intentionally misrepresenting
26 that installing computer software is necessary for security or privacy reasons or
27 in order to open, view, or play a particular type of content; or

1 (b) using intentionally deceptive means to cause the execution of a computer
2 software component with the intent of causing the computer to use such
3 component in a manner that violates any other provision of this Article.

4 **§ 46.606. Exceptions.**

5 Sections 46.604 and 46.605 shall not apply to the monitoring of, or interaction
6 with, an owner's or an operator's internet or other network connection, service, or
7 computer, by a telecommunications carrier, cable operator, computer hardware or
8 software provider, or provider of information service or interactive computer service
9 for network or computer security purposes, diagnostics, technical support,
10 maintenance, repair, network management, authorized updates of computer software
11 or system firmware, authorized remote system management, or detection or
12 prevention of the unauthorized use of or fraudulent or other illegal activities in
13 connection with a network, service, or computer software, including scanning for
14 and removing computer software prescribed under this Article.

15 **§ 46.607. Remedies.**

16 (a) The Attorney General, an internet service provider or software company that
17 expends resources in good faith assisting authorized users harmed by a violation of
18 this Article, or a trademark owner whose mark is used to deceive authorized users
19 in violation of this Article, may bring a civil action against a person who violates
20 any provision of this Article to recover actual damages, liquidated damages of at
21 least One Thousand Dollars (\$1,000) per violation of this Article, not to exceed One
22 Million Dollars (\$1,000,000) for a pattern or practice of such violations, attorney
23 fees, and costs.

24 (b) The court may increase a damage award to an amount equal to not more than
25 three times the amount otherwise recoverable under subsection 1 if the court
26 determines that the defendant committed the violation willfully and knowingly.

1 (c) The court may reduce liquidated damages recoverable under subsection 1, to
2 a minimum of one hundred dollars, not to exceed one hundred thousand dollars for
3 each violation if the court finds that the defendant established and implemented
4 practices and procedures reasonably designed to prevent a violation of this Article.

5 (d) In the case of a violation of § 46.604(f)(1) that causes a telecommunications
6 carrier or provider of voice over internet protocol service to incur costs for the
7 origination, transport, or termination of a call triggered using the modem or internet-
8 capable device of a customer of such telecommunications carrier or provider as a
9 result of such violation, the telecommunications carrier may bring a civil action
10 against the violator to recover any or all of the following:

11 (1) the charges such carrier or provider is obligated to pay to another carrier
12 or to an information service provider as a result of the violation, including, but
13 not limited to, charges for the origination, transport or termination of the call;

14 (2) costs of handling customer inquiries or complaints with respect to
15 amounts billed for such calls;

16 (3) costs and a reasonable attorney's fee; and

17 (4) an order to enjoin the violation.

18 (e) For purposes of a civil action under Subsections (a), (b) and (c), any single
19 action or conduct that violates more than one Subsection of this Article shall be
20 considered multiple violations based on the number of such Subsections violated.

21 **§ 46.608. Good Samaritan.**

22 (a) No provider of computer software or of an interactive computer service may
23 be held liable for identifying, naming, removing, disabling, or otherwise affecting a
24 computer program through any action voluntarily undertaken, or service provided,
25 where the provider:

1 (1) intends to identify accurately, prevent the installation or execution of,
2 remove, or disable another computer program on a computer of a customer of
3 such provider;

4 (2) reasonably believes the computer program exhibits behavior that violates
5 this Act; and

6 (3) notifies the authorized user and obtains clear and conspicuous consent
7 before undertaking such action or providing such service.

8 (b) A provider of computer software or interactive computer service is entitled
9 to protection under this Section only if such provider:

10 (1) has established internal practices and procedures to evaluate computer
11 programs reasonably designed to determine whether or not a computer program
12 exhibits behavior that violates this Act; and

13 (2) has established a process for managing disputes and inquiries regarding
14 misclassification or false positive identifications of computer programs. Nothing
15 in this Section is intended to limit the ability of the Attorney General, or a
16 District Attorney, to bring an action against a provider of computer software or
17 of an interactive computer service.

18 **Section 19. Chapter 47, Title 9, Guam Code Annotated, is hereby *repealed***
19 ***and reenacted in its entirety as follows:***

20 **CHAPTER 47**

21 **TRADEMARK COUNTERFEITING ACT**

22 **§ 47.10. Definitions.**

23 For purposes of the Trademark Counterfeiting Act,

24 (a) the term ‘*registered mark*’ means:

25 (1) a trademark or trade name registered in the United States and
26 Trademark Office, or in any State, Commonwealth or Territory of the United
27 States, or registered in Guam pursuant to §20401 *et. seq.* of Title 5, Guam

1 Code Annotated, or in any other country, or protected by the *Amateur Sports*
2 *Act of 1978*, 36 U.S.C. §380, or recognized by common law, whether or not
3 the defendant knew such trademark or trade name was so registered or
4 protected; and

5 (2) used without the consent of the registrant;

6 (b) the term ‘*counterfeit mark*’ means:

7 (1) a spurious mark,

8 (i) that is used in connection with trafficking goods or services;

9 (ii) that is identical with, or substantially indistinguishable from, a
10 mark registered for those goods or services on the principal register in
11 the United States Patent and Trademark Office or registered with the
12 Administrator of the Guam Economic Development and Commerce
13 Authority (‘GEDCA’) and with the Department of Revenue and
14 Taxation of the government of Guam, or in any other State,
15 Commonwealth or Territory of the United States, whether or not the
16 defendant knew such mark was so registered; and

17 (iii) the use of which is likely to cause confusion, to cause mistake,
18 or to deceive; or

19 (2) a spurious designation that is identical with, or substantially
20 indistinguishable from, a designation as to which the remedies of the
21 *Lanham Act* are made available, but such term does not include any mark or
22 designation used in connection with goods or services of which the
23 manufacture or production in question authorized to use the mark or
24 designation for the type of goods or services so manufactured or produced,
25 by the holder of the right to use such mark or designation;

26 (c) the term ‘*traffic*’ means to transport, transfer, or otherwise dispose of, to
27 another, in consideration for anything of value, or to make or obtain control of,

1 with the intent to transport, transfer, or dispose of;

2 (d) the term ‘*Lanham Act*’ means the Act entitled ‘*An Act To Provide For*
3 *The Registration And Protection Of Trademarks Used In Commerce, To Carry*
4 *Out The Provisions Of Certain International Conventions, And For Other*
5 *Purposes,*’ approved July 5, 1946 (15 U.S.C. §1051 *et. seq.*);

6 (e) the term ‘*cumulative retail sale value*’ of counterfeit goods or services
7 means a value equivalent to the cumulative price or fair market value of the
8 article as of the time of the crime.

9 **§ 47.20. Counterfeiting of Registered Trademarks.**

10 Whoever intentionally and knowingly reproduces, counterfeits, copies, or
11 colorably imitates a registered mark and applies such reproduction, counterfeit,
12 copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles
13 or advertisements, to be specifically used in commerce upon, or in connection with
14 the sale, offering for sale, distribution, or advertising of goods or services or in
15 connection with such use, shall be guilty of the crime of counterfeiting. The crime
16 of counterfeiting shall be punishable as follows:

17 (a) Misdemeanor. A person shall be convicted of a misdemeanor if the goods
18 or services to which the forged or counterfeit trademarks or service marks are
19 attached, affixed, or used in connection with, or to which the defendant intended
20 they be attached, affixed, or used in connection with, have a cumulative retail
21 sale value of Five Hundred Dollars (\$500) or less.

22 (b) Third Degree Felony. A person shall be convicted of a third degree
23 felony if the goods or services to which the forged or counterfeit trademarks or
24 service marks are attached, affixed, or used in connection with, or to which the
25 defendant intended they be attached, affixed, or used in connection with, have a
26 cumulative retail sale value in excess of Five Hundred Dollars (\$500) but less
27 than One-Thousand Five Hundred Dollars (\$1,500).

1 (c) Second Degree Felony. A person shall be convicted of a second degree
2 felony if the goods or services to which the forged or counterfeit trademarks or
3 service marks are attached, affixed, or used in connection with, or to which the
4 defendant intended they be attached, affixed, or used in connection with, have a
5 cumulative retail sale value of One Thousand Five Hundred Dollars (\$1,500) or
6 more.

7 **§ 47.30. Trafficking of Counterfeit Goods.**

8 Whoever intentionally and knowingly transports, transfers, or otherwise
9 disposes of counterfeit goods to another, in consideration for anything of value, or
10 makes or obtains control of counterfeit goods with intent to transport, transfer, or
11 dispose of such goods, shall be guilty of the crime of trafficking of counterfeit goods.
12 Goods bearing a counterfeit mark in the possession of a person who intends personal
13 use and not resale are permitted. The crime of trafficking of counterfeit goods shall
14 be punishable as follows:

15 (a) Misdemeanor. A person shall be found guilty of a misdemeanor if the
16 trafficked goods or services to which the forged or counterfeit trademarks or
17 service marks are attached, affixed, or used in connection with, or to which the
18 defendant intended they be attached, affixed, or used in connection with, have a
19 cumulative retail sale value of Five Hundred Dollars (\$500) or less.

20 (b) Third Degree Felony. A person shall be guilty of a third degree felony if
21 the trafficked goods or services to which the forged or counterfeit trademarks or
22 service marks are attached, affixed, or used in connection with, or to which the
23 defendant intended they be attached, affixed, or used in connection with, have a
24 cumulative retail sale value in excess of Five Hundred Dollars (\$500) but less
25 than One Thousand Five Hundred Dollars (\$1,500).

26 (c) Second Degree Felony. A person shall be guilty of a second degree
27 felony if the trafficked goods or services to which the forged or counterfeit

1 trademarks or service marks are attached, affixed, or used in connection with, or
2 to which the defendant intended they be attached, affixed, or used in connection
3 with, have a cumulative retail sale value of One Thousand Five Hundred Dollars
4 (\$1,500) or more.

5 **§ 47.40. Aiding and Abetting the Trafficking of Counterfeit Goods.**

6 A person is guilty of aiding or abetting the trafficking of counterfeit goods who:

7 (a) solicits a person to purchase counterfeit goods; or

8 (b) knowingly and for the purpose of trafficking of counterfeit goods,
9 transports any person into, out of or within Guam, or who procures or pays for
10 the transportation of any person into, out of or within Guam for the purpose of
11 trafficking counterfeit goods.

12 **§ 47.50. Defenses, Affirmative Defenses, and Limitations on Remedies.**

13 All defenses, affirmative defenses, and limitations on remedies that would be
14 applicable in an action under the *Lanham Act*, (15 U.S.C. §1051 *et seq.*), shall be
15 applicable in a prosecution under this Chapter.

16 **§ 47.60. Enforcement.**

17 (a) Except as otherwise provided in this Chapter, any goods to which a forged or
18 counterfeit trademark or service mark is attached or affixed, or any tools or other
19 reproduction materials for the reproduction of any specific forged or counterfeit
20 trademark or service mark, which are produced or possessed in violation of this
21 Chapter shall be seized by any law enforcement officer. Upon a determination by a
22 preponderance of the evidence that any articles in the possession of the defendant in
23 a prosecution under this Chapter bears a counterfeit mark, the Attorney General may
24 obtain an order from the Court for the destruction of the counterfeit goods, unless
25 the owner of the registered or protected trademark or service mark which has been
26 forged or counterfeit approves a different disposition.

27 (b) Any personal property, including, but not limited to, cash, currency or monies

1 received by or in connection with a violation of this Chapter, or any item, object,
2 tool, machine, or vehicle of any kind, employed as an instrumentality in the
3 commission of, or in aiding or abetting in the commission of the crime
4 counterfeiting, trafficking in counterfeit goods, or any other violation of this
5 Chapter, may be seized and is subject to forfeiture by the Courts of Guam.

6 **§ 47.70. Restitution.**

7 In addition to any punishment ordered under §§ 47.20, 47.30 and 47.40, the
8 Court shall order any person found in violation of this Chapter to make restitution to
9 the government of Guam or to the Customs and Quarantine Agency, as the case may
10 be, for the cost of storage and destruction of the counterfeit or forged goods. Such
11 person shall be jointly and severally liable for any restitution.

12 **§ 47.80. Protection for Landlords.**

13 No owner, officer, employee, or agent who provides, rents, leases, licenses, or
14 sells real property upon which a violation of § 47.20 or § 47.30 occurs, and who is
15 charged with a violation of § 47.40, shall be subject to criminal penalty under this
16 Chapter unless he or she is proven to have actual knowledge that the mark is
17 counterfeit and is either a principal to the offense or an accessory.

18 **Section 20. Chapter 48, Title 9, Guam Code Annotated, is hereby**
19 ***repealed and reenacted in its entirety as follows:***

20 **CHAPTER 48**

21 **NOTIFICATION OF BRACHES OF PERSONAL INFORMATION**

22 **§ 48.10. Legislative Findings and Intent.**

23 I Liheslaturan Guåhan finds that both public and private entities on Guam have
24 a duty to safeguard personal information that, *if* stolen *or* publicized, may result in
25 crimes such as fraud and identity theft. The anonymity of the global internet, that
26 transcends the borders of sovereign nations, makes it possible for unscrupulous
27 individuals to profit from the theft of personal information and never be brought to

1 justice for their crimes *or* made to pay restitution. Therefore, it is incumbent upon
2 all entities that are entrusted with such data to maintain strong security systems to
3 ensure that the personal information will always be protected.

4 It is the intent of I Liheslatura to ensure that the personal information of the
5 residents of Guam is protected, by providing procedures for notification of security
6 breaches related to personal information and thereby encouraging individuals and
7 commercial entities, as defined by public law, to provide reasonable security for
8 unencrypted personal information.

9 **§ 48.20. Definitions.**

10 As used in this Chapter:

11 (a) *Breach of the security of a system* means the unauthorized access and
12 acquisition of unencrypted and unredacted computerized data that compromises
13 the security *or* confidentiality of personal information maintained by an
14 individual *or* entity as part of a database of personal information regarding
15 multiple individuals and that causes, *or* the individual *or* entity reasonably
16 believes has caused *or* will cause, identity theft *or* other fraud to any resident of
17 Guam.

18 Good faith acquisition of personal information by an employee *or* agent of
19 an individual *or* entity for the purposes of the individual *or* the entity is *not* a
20 breach of the security of the system, provided, that the personal information is
21 *not* used for a purpose other than a lawful purpose of the individual *or* entity *or*
22 subject to further unauthorized disclosure.

23 (b) *Entity* includes corporations, business trusts, estates, partnerships, limited
24 partnerships, limited liability partnerships, limited liability companies,
25 associations, organizations, joint ventures, governments, governmental
26 subdivisions, agencies, *or* instrumentalities, *or* any other legal entity, whether
27 for profit *or* not-for-profit.

1 (c) *Encrypted* means transformation of data through the use of an algorithmic
2 process into a form in which there is a low probability of assigning meaning
3 without the use of a confidential process *or* key, *or* securing the information by
4 another method that renders the data elements unreadable *or* unusable.

5 (d) *Financial institution* has the meaning given that term in Section 6809(3)
6 of Title 15, United States Code.

7 (e) *Individual* means a natural person.

8 (f) *Personal information* means the first name, *or* first initial, and last name
9 in combination with and linked to any one *or* more of the following data
10 elements that relate to a resident of Guam, when the data elements are *neither*
11 encrypted *nor* redacted:

12 (1) Social Security number;

13 (2) Driver's license number *or* Guam identification card number issued
14 in lieu of a driver's license; *or*

15 (3) Financial account number, *or* credit card *or* debit card number, in
16 combination with any required security code, access code, *or* password that
17 would permit access to a resident's financial accounts.

18 (4) The term *does not* include information that is lawfully obtained from
19 publicly available information, *or* from Federal, State, *or* local government
20 records lawfully made available to the general public.

21 (g) *Notice* means:

22 (1) Written notice to the postal address in the records of the individual
23 *or* entity;

24 (2) Telephone notice;

25 (3) Electronic notice; *or*

26 (4) Substitute notice, *if* the individual *or* the entity required to provide
27 notice demonstrates that the cost of providing notice will *exceed* Ten

1 Thousand Dollars (\$10,000), *or* that the affected class of residents to be
2 notified *exceeds* five thousand (5,000) persons, or that the individual or the
3 entity does *not* have sufficient contact information *or* consent to provide
4 notice as described in paragraphs 1, 2, *or* 3. Substitute notice consists of any
5 two (2) of the following:

6 (A) E-mail notice *if* the individual *or* the entity has e-mail addresses
7 for the members of the affected class of residents;

8 (B) Conspicuous posting of the notice on the Website of the
9 individual *or* the entity, *if* the individual *or* the commercial entity
10 maintains a Website; and

11 (C) Notice to major Guam media.

12 (h) *Redact* means alteration *or* truncation of data such that *no more than* the
13 following are accessible as part of the personal information:

14 (1) five (5) digits of a Social Security Number, *or*

15 (2) The last four (4) digits of a driver's license number, Guam
16 identification card number *or* financial account number.

17 **§ 48.30. Disclosure of Breach of Security of Computerized Personal**
18 **Information by an Individual *or* Entity.**

19 (a) General Rule. An individual *or* entity that owns *or* licenses computerized
20 data that includes personal information *shall* disclose any breach of the security of
21 the system following discovery *or* notification of the breach of the security of the
22 system to any resident of Guam whose unencrypted and unredacted personal
23 information was *or* is reasonably believed to have been accessed and acquired by an
24 unauthorized person and that causes, *or* the individual *or* entity reasonably believes
25 has caused *or* will cause, identity theft *or* other fraud to any resident of Guam.
26 *Except* as provided in subsection (d) of this Section, *or* in order to take any measures

1 necessary to determine the scope of the breach and to restore the reasonable integrity
2 of the system, the disclosure *shall* be made without unreasonable delay.

3 (b) Encrypted Information. An individual *or* entity must disclose the breach of
4 the security of the system *if* encrypted information is accessed and acquired in an
5 unencrypted form, *or if* the security breach involves a person with access to the
6 encryption key and the individual *or* entity reasonably believes that such breach has
7 caused *or* will cause identity theft *or* other fraud to any resident of Guam.

8 (c) An individual *or* entity that maintains computerized data that includes
9 personal information that the individual *or* entity *does not* own or license *shall* notify
10 the owner *or* licensee of the information of any breach of the security of the system
11 as soon as practicable following discovery, *if* the personal information was, *or* if the
12 entity reasonably believes was, accessed and acquired by an unauthorized person.

13 (d) Notice required by this Section may be delayed *if* a law enforcement agency
14 determines and advises the individual *or* entity that the notice will impede a criminal
15 *or* civil investigation, *or* homeland *or* national security. Notice required by this
16 Section must be made without unreasonable delay after the law enforcement agency
17 determines that notification will no longer impede the investigation *or* jeopardize
18 national *or* homeland security.

19 **§ 48.40. Procedures Deemed in Compliance with Security Breach**
20 **Requirements.**

21 (a) Information Privacy *or* Security Policy. An entity that maintains its own
22 notification procedures as part of an information privacy *or* security policy for the
23 treatment of personal information and that are consistent with the timing
24 requirements of this Chapter *shall* be deemed to be in compliance with the
25 notification requirements of this Chapter *if* it notifies residents of Guam in
26 accordance with its procedures in the event of a breach of security of the system.

27 (b) Compliance with Federal requirements.

1 (1) A financial institution that complies with the notification requirements
2 prescribed by the Federal Interagency Guidance on Response Programs for
3 Unauthorized Access to Customer Information and Customer Notice is deemed
4 to be in compliance with this Chapter.

5 (2) An entity that complies with the notification requirements *or* procedures
6 pursuant to the rules, regulations, procedures, *or* guidelines established by the
7 entity's primary *or* functional Federal regulator *shall* be in compliance with this
8 Chapter.

9 **§ 48.50. Violations.**

10 (a) A violation of this Chapter that results in injury *or* loss to residents of Guam
11 may be enforced by the Office of the Attorney General.

12 (b) *Except* as provided by § 48.40 of this Chapter, the Office of the Attorney
13 General *shall* have exclusive authority to bring action and may obtain either actual
14 damages for a violation of this Chapter *or* a civil penalty *not to exceed* One Hundred
15 Fifty Thousand Dollars (\$150,000) per breach of the security of the system *or* series
16 of breaches of a similar nature that are discovered in a single investigation.

17 **§ 48.60. Applicability.**

18 This Chapter *shall* apply to the discovery *or* notification of a breach of the
19 security of the system that occurs on *or* after the effective date of this Chapter.

20 **§ 48.70. Effective Date.**

21 This Chapter *shall* take effect one hundred twenty (120) days after the date of
22 enactment.

23 **§ 48.80. Preemption.**

24 This Chapter deals with subject matter that is of island-wide concern, and it is
25 the intent of I Liheslatura that this Chapter *shall* supersede and preempt all rules and
26 regulations regarding the matters expressly set forth in this Chapter.

27 **Section 21. Chapter 52, Title 9, Guam Code Annotated, is hereby *repealed***

1 *and reenacted in its entirety as follows:*

2 **CHAPTER 52**

3 **PERJURY AND OFFENSE AGAINST THE INTEGRITY OF OFFICIAL PROCEEDINGS**

4 **§ 52.10. Definitions.**

5 As used in this Chapter:

6 ~~(a) *official function* and *public servant* have the meanings provided for those~~
7 ~~terms by § 49.10.~~

8 ~~(b)~~ *material statement* means a statement which affected or could have
9 affected the course or outcome of a proceeding, regardless of its admissibility
10 under rules of evidence.

11 (b) *official function* means the decision, opinion, recommendation, vote or
12 other exercise of discretion or performance of duty of a public servant in a lawful
13 or unlawful manner.

14 (c) *official proceeding* means a proceeding before any court, body, agency,
15 public servant or other person authorized by law to conduct such proceeding and
16 to administer an oath or cause it to be administered, including any referee,
17 hearing officer, commissioner, notary or other person taking testimony or
18 deposition in connection with any such proceeding.

19 ~~(d) *public record* means any record, document, thing belonging to, or~~
20 ~~received or kept by the Government of Guam or any governmental~~
21 ~~instrumentality within the Territory.~~

22 (d) *public servant* means any officer, member, or employee of the
23 legislative, executive, or judicial branches of Guam or of any governmental
24 instrumentality within Guam, any juror, any persons exercising the functions of
25 any such position, or any referee, arbitrator, hearing officer, or other person
26 authorized by law to hear or determine any question or controversy. It includes
27 a person who has been elected, appointed or designated to become a public

1 servant, and, in the case of a juror, a person who has been drawn, empaneled, or
2 designated to attend as a prospective grand or petit juror.

3 (e) *statement* means any ~~non-trivial~~ representation, but includes a
4 representation of opinion, belief or other state of mind ~~is a statement~~ only if it
5 clearly relates to a state of mind apart from or in addition to the facts which it
6 otherwise represents.

7 (f) *statement under oath* means

8 (1) a statement made pursuant to a swearing, an affirmation, or any other
9 mode authorized by law of attesting to the truth of that which is stated; and

10 (2) a statement made on a form bearing notice, authorized by law, to the
11 effect that false statements made therein are punishable.

12 ~~(3) testimony means oral or written statements, documents or any other~~
13 ~~material which may be offered by a witness in an official proceeding.~~

14 (g) *testimony* means oral or written statements, documents or any other
15 material which may be offered by a witness in an official proceeding.

16 § 52.15. Perjury; Defined & Punished.

17 (a) A person is guilty of perjury if, under oath in an official proceeding, he makes
18 a false statement which is material and which he does not believe to be true.

19 (b) Whether a statement is material is a question of law.

20 (c) Perjury is a felony of the third degree.

21 § 52.20. False Statement Under Oath; Defined & Punished.

22 A person is guilty of a misdemeanor if he makes a false statement under oath
23 which he does not believe to be true and:

24 (a) the falsification occurs in an official proceeding; or

25 (b) the falsification is intended to mislead a public servant in performing his
26 official function.

27 § 52.25. Unavailability of Certain Defenses.

1 It is not a defense to any offense defined in § 52.15 or § 52.20 that:

2 (a) the oath was administered or taken in an irregular manner;

3 (b) the authority or jurisdiction of the person administering the oath was
4 defective, if the defect was excusable under any statute or rule of law;

5 (c) the statement was subject to a proper objection, whether or not such
6 objection was made; or

7 (d) the defendant mistakenly believed the falsification to be immaterial,
8 where materiality of the statement is an element of the offense.

9 **§ 52.30. Unsworn Falsifications; Defined & Punished.**

10 A person is guilty of a misdemeanor if, with intent to mislead a public servant in
11 performing his official function, he makes, submits or uses:

12 (a) any ~~written~~ false statement, in written or electronic format, ~~of his own~~
13 which he does not then believe to be true; or

14 (b) any physical object, exhibit, writing or drawing which he knows to be
15 either false or not what it purports to be in the circumstances in which it is made,
16 submitted or used.

17 **§ 52.40. Intimidation of Witnesses by Extortion; Defined & Punished.**

18 A person is guilty of a felony of the third degree if, by any threat which would
19 constitute a means of committing the offense of theft by extortion under this Code if
20 such threat were employed to obtain property, he:

21 (a) attempts to induce any person to refrain from reporting to law
22 enforcement authorities the commission or suspected commission of any offense
23 or information relating to an offense; or

24 (b) attempts to induce any person who has been or may be properly called as
25 a witness in any official proceeding to give false testimony in, to withhold
26 testimony or information from, or to fail to attend, any such proceeding.

1 **§ 52.45. Witness Bribery: Solicitation: Definitions; Punishment; Affirmative**
2 **Defenses.**

3 A person is guilty of a felony of the third degree if he:

4 (a) offers, confers upon, or agrees to confer upon, any person any benefit as
5 consideration for refraining from reporting to law enforcement authorities the
6 commission or suspected commission of any offense or information relating to
7 any offense; provided that it is an affirmative defense to a prosecution under this
8 Subsection that the benefit was honestly offered or conferred as restitution or
9 indemnification for harm done in the circumstances of the offense;

10 (b) offers, confers upon, or agrees to confer upon, any person who has been
11 or may be properly called as a witness in an official proceeding any benefit as
12 consideration for giving false testimony or information, for withholding
13 testimony or information from, or for failing to attend, any such official
14 proceeding;

15 (c) solicits, accepts or agrees to accept any benefit as consideration for
16 refraining from reporting to law enforcement authorities the commission or
17 suspected commission of any offense or information, relating to an offense;
18 provided that it is an affirmative defense to a prosecution under this Subsection
19 that the benefit was honestly claimed as restitution or indemnification for harm
20 done in the circumstances of the offense; or

21 (d) solicits, accepts or agrees to accept, in connection with any official
22 proceeding to which he has been or may be properly called as a witness, any
23 benefit as consideration for giving false testimony or information in, for
24 withholding testimony or information from, or for failing to attend, any such
25 official proceeding.

26 **§ 52.50. Tampering with Witnesses: Defined and Punished.**

1 A person is guilty of a misdemeanor if he attempts to induce any person to give
2 false testimony in or to withhold testimony from any official proceeding to which
3 he has been or may be properly called as a witness, or to fail to attend any official
4 proceeding to which he has been lawfully called as a witness.

5 **§ 52.55. Falsifying Evidence; Defined & Punished.**

6 A person is guilty of a ~~felony of the third degree~~ misdemeanor if, believing that
7 an official proceeding has been or is about to be instituted, he prepares, offers in
8 evidence or uses any record, document or thing in any form, including written or
9 electronic format, knowing it to be false and with intent to mislead a public servant
10 who is or may be engaged in the proceeding.

11 **§ 52.60. Destroying Evidence; Defined & Punished.**

12 A person is guilty of a misdemeanor if, believing that an official proceeding has
13 been or is about to be instituted, he destroys, conceals or removes any record,
14 document or thing in any form, including written or electronic format, with intent to
15 impair its availability in the proceeding.

16 **§ 52.65. Unlawful Communication With Jurors; Defined & Punished.**

17 A person is guilty of a misdemeanor if, with intent to influence the outcome of
18 an official proceeding, he communicates with a juror, except as may be authorized
19 by law.

20 **Section 22. Chapter 55, Title 9, Guam Code Annotated, is hereby**
21 ***repealed and reenacted in its entirety as follows:***

22 **CHAPTER 55**

23 **INTERFERENCE WITH GOVERNMENT OPERATIONS AND LAW ENFORCEMENT**

24 **§ 55.10. Tampering With Public Records; Defined & Punished.**

25 (a) Public record means any record, document or thing in any form, including
26 written or electronic format, belonging to, or received or kept by, the government for
27 information or record, or required by law to be kept by others for information of the

1 government.

2 (a**b**) A person commits ~~an~~ the offense of tampering with public records if he:

3 (1) knowingly makes a false entry in, or false alteration of a public
4 record ~~any record, document or thing belonging to, or received or kept by, the~~
5 ~~government for information or record, or required by law to be kept by others~~
6 ~~for information of the government;~~

7 (2) makes, presents or uses any record, document or thing knowing it to be
8 false, and with intent that it be taken as a genuine part of information or records
9 referred to in ~~Paragraph (1)~~ Subsection (a); or

10 (3) intentionally and unlawfully destroys, conceals, removes or otherwise
11 impairs the verity or availability of a public record ~~any such record, document~~
12 ~~or thing.~~

13 (b**c**) An offense under this Section is a misdemeanor unless the defendant's intent
14 is to defraud or injure anyone, in which case the offense is a felony of the third
15 degree.

16 **§ 55.15. Hindering Apprehension or Prosecution; Defined & Punished.**

17 (a) A person is guilty of the offense of hindering apprehension or prosecution if,
18 with intent to hinder, prevent or delay the discovery, apprehension, prosecution,
19 conviction or punishment of another person for the commission of an offense, he:

20 (1) harbors or conceals the other person;

21 (2) provides or aids in providing a weapon, transportation, disguise or other
22 means of avoiding discovery or apprehension;

23 (3) conceals, alters or destroys ~~and~~ any physical evidence that might aid in
24 the discovery, apprehension or conviction of such person;

25 (4) warns such person of impending discovery or apprehension, except that
26 this Paragraph does not apply to a warning given in connection with an effort to
27 bring another into compliance with law;

1 (5) obstructs by force, intimidation or deception anyone from performing an
2 act which might aid in the discovery, apprehension, prosecution or conviction of
3 such person; or

4 (6) aids such person to safeguard the proceeds of or to profit from such
5 offense.

6 (b) Hindering apprehension or prosecution is a felony of the third degree if the
7 defendant knows that the charge made or liable to be made against the other person
8 is a felony of the first or second degree. Otherwise the offense is a misdemeanor.

9 **§ 55.20. False Alarms; Defined & Punished.**

10 (a) A person is guilty of a misdemeanor when, with knowledge of its falsity, he
11 causes a false alarm of fire or other emergency to be transmitted to any organization
12 that responds to emergencies involving danger to life or property.

13 (b) A person is guilty of a misdemeanor when, with knowledge of its falsity, he
14 initiates or circulates a false alarm of fire or other emergency knowing that the alarm
15 is likely to cause evacuation of a building, place of assembly, or facility of public
16 transport, or to cause public inconvenience or alarm.

17 (c) A person is guilty of a felony of the third degree if the false alarm involves a
18 report or warning of an impending bombing, hostage situation, person armed with a
19 deadly weapon as defined by 9 GCA § 16.10, or any other incident that elicits an
20 immediate or heightened response by law enforcement or emergency services.

21 **§ 55.25. Making False Reports; Defined & Punished.**

22 (a) A person commits a ~~misdemeanor~~ felony of the third degree who: ~~(a)~~
23 knowingly gives false information to any ~~law enforcement~~ peace officer with intent
24 to induce such officer to believe that another person has committed an offense; ~~2~~

25 (b) A person commits a misdemeanor who:

26 (1) reports to law enforcement authorities any peace officer an offense or
27 other incident within their concern knowing that it did not occur, or

1 (2) makes a report which purports to furnish law enforcement authorities any
2 peace officer with information relating to an offense or incident when he knows
3 that he has no such information.

4 **§ 55.30. Impersonating a Public Officer Servant or Peace Officer; Defined &**
5 **Punished.**

6 (a) A person commits a misdemeanor if he falsely pretends to hold a position in
7 the public service with intent to induce another to submit to such pretended official
8 authority or otherwise to act in reliance upon that pretense to his prejudice.

9 (b) A person commits a felony of the third degree if he falsely pretends to hold
10 a position as a peace officer or member or employee or agent of any organization or
11 association of peace officers with purpose to induce another to submit to such
12 pretended official authority or otherwise to act in reliance upon that pretense.

13 **§ 55.35. Resisting Arrest of Self or Others; Defined & Punished.**

14 A person is guilty of a misdemeanor when, with intent to prevent or delay the
15 arrest of himself or another person by one whom he knows or reasonably should
16 know to be a peace officer acting in an official capacity, he prevents or delays that
17 arrest by the use or threat of force or by physical obstruction. For purposes of this
18 Section, a peace officer shall include apprehending officers designated under Article
19 2 of 10 GCA Chapter 51, as well as peace officers as defined under ~~9 GCA § 1.70~~ 8
20 GCA § 5.55.

21 **§ 55.40. Disarming of a Peace Officer; Defined & Punished.**

22 (a) A person commits the ~~crime~~ offense of disarming a peace officer, as defined
23 by 17 GCA § 51101 if such person intentionally:

24 (1) removes, or attempts to remove, a firearm, deadly weapon, or less-lethal
25 weapon, including any blunt impact, chemical, or conducted energy device, used
26 in the performance of his or her official duties from the person of a peace officer
27 while said officer is acting within the scope of his or her official duties; or

1 (2) deprives, or attempts to deprive, a peace officer of said officer's use of a
2 firearm, deadly weapon, or any other equipment described in Subsection (a)(1)
3 of this Section while the officer is acting within the scope of his or her official
4 duties.

5 (b) The provisions of this Section *shall not* apply when:

6 (1) the defendant does not know or could not reasonably have known that
7 the person he or she disarmed was a peace officer; or

8 (2) the peace officer was engaged in an incident involving felonious conduct
9 by the peace officer at the time the defendant disarmed said officer.

10 (c) An offense under this Section is a felony of the third degree, unless the
11 defendant's intent is to injure anyone, in which case the offense is a felony of the
12 second degree.

13 **§ 55.45. Obstructing Governmental Functions; Defined & Punished.**

14 A person commits a misdemeanor if he intentionally obstructs, impairs or
15 perverts the administration of law or other governmental function by force, violence,
16 physical interference or obstacle, breach of official duty, or any other unlawful act,
17 except that this Section does not apply to flight by a person charged with crime,
18 refusal to submit to arrest, failure to perform a legal duty other than an official duty,
19 or any other means of avoiding compliance with law without affirmative interference
20 with governmental functions.

21 **§ 55.50. Damaging, Stealing or Receiving Stolen Government Generators,
22 Telephones, or Emergency or Utility Equipment.**

23 A person commits a felony in the second degree if he intentionally damages or
24 steals any generator, power pole, power line, telephone, telephone line, telephone
25 facility, water meter, or other emergency or utility equipment or vehicle owned or
26 installed by the government of Guam, its agencies or instrumentalities.

1 **§ 55.51. Receiving Stolen Government Generators, Telephones or Emergency**
2 **Utility Equipment.**

3 A person commits a felony in the second degree if he receives any stolen
4 generator, power pole, power line, telephone, telephone line, telephone facility,
5 water meter, or other emergency or utility equipment or vehicle owned or installed
6 by the government of Guam, its agencies or instrumentalities, knowing such item is
7 stolen.

8 **§ 55.60. Public Water, Unlawful Use During Period of Emergency.**

9 (a) Upon the declaration by the Governor of a state of emergency as the result of
10 a disaster that threatens the public water supply, it shall be a petty misdemeanor for
11 any person to use water supplied by the ~~Public Utility Agency of Guam~~ Guam
12 Waterworks Authority for any unauthorized use.

13 (b) During a state of emergency public water is authorized to be used for
14 purposes of public health, safety and welfare. Any use of the public water during a
15 state of emergency for a use not pertaining to public health, safety and welfare shall
16 not be authorized. Such unauthorized uses shall include, but not be limited to,
17 washing motor vehicles, windows, streets, sidewalks and buildings or irrigating or
18 watering ornamental plants, shrubs, flower, lawns or golf courses.

19 (c) In addition to any other penalty imposed by the court upon conviction under
20 this section, a conviction arising from unauthorized use of water for a business or
21 commercial purpose shall be punished by a fine of not less than One Thousand
22 Dollars (\$1,000) nor more than Twenty-Five Thousand Dollars (\$25,000).

23 (d) No state of emergency proclaimed by the Governor shall be for a period of
24 more than fifteen (15) days. The Governor may proclaim successive states of
25 emergency if he deems such proclamation to be in the public interest.

26 **§ 55.65. Failure to File a Complete Partial-Birth Abortion and Abortion Report.**

1 A person commits a misdemeanor who knowingly fails to file a complete
2 individual abortion report for each abortion with the Territorial Registrar of Vital
3 Statistics within seven (7) days from the date of the abortion.

4 **Section 23. Chapter 70, Title 9, Guam Code Annotated, is hereby *repealed***
5 ***and reenacted in its entirety as follows:***

6 **CHAPTER 70**

7 **MISCELLANEOUS CRIMES**

8 **ARTICLE 1**

9 **PROTECTING ANIMAL WELFARE AND SAFETY (PAWS) ACT (PUGUA’S LAW)**

10 **§ 70.10. Title.**

11 Sections 70.10 through 70.85 of this Article may be cited as the *Protecting*
12 *Animal Welfare and Safety (PAWS) Act* or *Pugua’s Law*.

13 **§ 70.15. Definitions.**

14 For the purposes of §§ 70.10 through 70.85 of this Article:

15 (a) *Animal* means any nonhuman mammal, bird, reptile, amphibian, or fish,
16 and is inclusive of, but not limited to, livestock and domestic animals.

17 (b) *Caregiving agency* means an animal shelter, humane society, or other
18 animal care agency that has as its principal purpose the humane treatment of
19 animals, and that has temporary custody of an animal after the animal has been
20 seized.

21 (c) *Domestic animal* means any animal, other than livestock, that is owned
22 by a person or in a person’s possession.

23 (d) *Good animal husbandry* includes, but is not limited to, the dehorning of
24 cattle, the docking of horses, sheep or swine, and the castration or neutering of
25 livestock, or the ear cropping and tail docking of dogs, according to accepted
26 practices of veterinary medicine or animal husbandry.

27 (e) *Guardian* means a person who has possession, title, ownership interest,

1 or other legal interest in an animal.

2 (f) *Livestock* means cattle, carabao, swine, deer, sheep, goats, equine, and
3 poultry raised for labor, food, or other purposes.

4 (g) *Minimum care* means care reasonably sufficient to preserve the health
5 and well-being of an animal and, except for emergencies or circumstances
6 beyond the reasonable control of the guardian, includes, but is not limited to, the
7 following requirements:

8 (1) open or adequate access to food of reasonable quantity and quality to
9 allow for normal growth or maintenance of body weight;

10 (2) open or adequate access to potable water of reasonable quality and
11 quantity to satisfy the animal's needs;

12 (3) access to a structure reasonably sufficient to protect the animal from
13 wind, rain, sun, or other environmental or weather conditions;

14 (4) veterinary and other care deemed necessary by a reasonably prudent
15 person to relieve distress from injury, neglect, or disease;

16 (5) for a domestic animal, continuous access to an area:

17 (A) with reasonably adequate space for exercise necessary for the
18 health of the animal;

19 (B) with air temperature reasonably suitable for the health of the
20 domestic animal;

21 (C) with adequate ventilation;

22 (D) with regular diurnal lighting cycles of either natural or artificial
23 light; and

24 (E) kept reasonably clean and free from excess waste or other
25 contaminants that could affect the health of the animal(s).

26 (h) *Officer* means a member of the Guam Police Department, a Mayor of
27 Guam, an Animal Control Officer, a Conservation Officer, or any other person

1 authorized by law, ~~by the Chief of the Guam Police Department or by the Director~~
2 ~~of the Department of Agriculture.~~

3 (i) *Person* means an individual, corporation, trust, partnership, association, or
4 any other legal entity.

5 (j) *Physical injury* means physical trauma, impairment of condition, or pain
6 or illness produced by violence or by a thermal or chemical agent, ~~and includes,~~
7 ~~but is not limited to, starvation, dehydration, hypothermia, hyperthermia, muscle~~
8 ~~atrophy, restriction of blood flow to a limb or organ, mange or other skin disease,~~
9 ~~or parasitic infestation.~~

10 (k) *Physical trauma* means fractures, cuts, punctures, bruises, burns, or other
11 wounds.

12 (l) *Possession* means to have physical custody or to exercise dominion with
13 intent of ownership or control over an animal.

14 (m) *Serious physical injury* means physical injury that creates a substantial
15 risk of death or that causes protracted disfigurement, protracted impairment of
16 health, or protracted loss or impairment of the function of a limb, body part, or
17 bodily organ.

18 (n) *Torture* means an action taken with the intent of inflicting or prolonging
19 pain or suffering.

20 (o) *Suffering* means fear, agitation, severe depression or stress, or other
21 forms of severe emotional or mental distress.

22 **§ 70.20. Animal Neglect (Violation).**

23 (a) A person commits the offense of Animal Neglect if, except as otherwise
24 authorized by § 70.65 of this Article, the person (1) intentionally ~~or,~~ knowingly, ~~or~~
25 ~~recklessly~~ fails to provide minimum care for an animal in the person's possession,

1 or (2) recklessly or with criminal negligence causes physical injury to an animal in
2 the person's possession.

3 (b) Animal Neglect ~~is an offense punishable by a fine of not more than Five~~
4 ~~Hundred Dollars (\$500) per offense~~ a violation.

5 (c) Each act or omission in violation of Subsection (a) of this Section shall
6 constitute a separate ~~offense~~ violation.

7 **§ 70.25. Animal Abuse.**

8 (a) A person commits the crime of Animal Abuse if, except as otherwise
9 authorized by § 70.65 of this Article, the person intentionally, or knowingly,
10 ~~recklessly, or with criminal negligence:~~

11 (1) causes physical injury to an animal;

12 (2) causes serious physical injury to an animal; or

13 (3) causes the death of an animal.

14 (b) Animal Abuse under Subsection (a)(1) of this Section is a misdemeanor.
15 Animal Abuse under Subsection (a)(2) or (a)(3) of this Section is a third degree
16 felony.

17 (c) Each act or omission in violation of Subsection (a) of this Section shall
18 constitute a separate offense.

19 **§ 70.30. Aggravated Animal Abuse.**

20 (a) A person commits the crime of Aggravated Animal Abuse if, except as
21 otherwise authorized by § 70.65 of this Article, the person intentionally, knowingly,
22 recklessly, or with criminal negligence:

23 (1) tortures an animal; or

24 (2) causes the death of an animal under circumstances demonstrating malice
25 aforethought.

26 (b) Aggravated Animal Abuse is a second degree felony.

27 (c) Each act or omission in violation of Subsection (a) of this Section shall

1 constitute a separate offense.

2 **§ 70.35. Animal Fighting.**

3 (a) No person shall cause, sponsor, aid, abet, arrange, hold, or encourage any
4 animal to fight, menace, or injure another animal for the purpose of sport,
5 amusement, or pecuniary gain. ~~This Section does not apply to cockfighting that is~~
6 ~~authorized by law.~~

7 (b) For the purposes of this Section, a person encourages an animal to fight,
8 menace or injure another animal for the purpose of sport, amusement, or pecuniary
9 gain, if the person:

10 (1) is knowingly present at or wagers on such an occurrence of fighting,
11 menacing, or injuring for the purpose of sport, amusement, or pecuniary gain;

12 (2) owns, trains, transports, possesses, has custody or control of, breeds, or
13 equips an animal with the intent that such animal will be engaged in such an
14 occurrence of fighting, menacing, or injuring for the purpose of sport,
15 amusement, or pecuniary gain;

16 (3) knowingly allows any such occurrence of fighting, menacing, or injuring
17 for the purpose of sport, amusement, or pecuniary gain to occur on any property
18 owned or controlled by the person;

19 (4) knowingly allows any animal to be used for such an occurrence of
20 fighting, menacing, or injuring for the purpose of sport, amusement, or pecuniary
21 gain to be kept, boarded, housed, or trained on, or transported in, any property
22 owned or controlled by the person;

23 (5) knowingly advertises or uses any means of communication for the
24 purpose of promoting such an occurrence of fighting, menacing, or injuring for
25 the purpose of sport, amusement, or pecuniary gain; or

26 (6) knowingly possesses, owns, buys, sells, transfers, or manufactures any
27 animal used for fighting, menacing, or injuring for the purpose of sport,

1 amusement, or pecuniary gain; or any device intended to train or enhance the
2 animal's fighting, menacing or injuring ability for the purpose of sport,
3 amusement, or pecuniary gain.

4 (c) Any violation of Subsection (a) of this Section shall constitute Animal
5 Fighting, which is a third degree felony.

6 ~~(d) Notwithstanding any other provision of law, the penalty for a violation of~~
7 ~~Subsection (a) of this Section shall be confinement in a correctional facility in~~
8 ~~accordance with Article 2 of 9 GCA Chapter 80 and a fine of not less than Five~~
9 ~~Thousand Dollars (\$5,000) and no more than Fifteen Thousand Dollars (\$15,000),~~
10 ~~or both, per violation. Additionally, Any~~ person convicted of any violation of this
11 Section may be subject to seizure of any personal property, including vehicles, and
12 real property at which the animal fight was staged.

13 (e) Nothing in this Section shall constitute a prohibition or ban on the possession,
14 lawful importation/exportation, breeding, or selling of any breed of dog.

15 (f) Veterinarians and/or physicians and/or health professionals are required to
16 report suspected animal fighting incidents, excluding cockfighting as authorized by
17 law, that come to their attention through the provision of medical services to an
18 animal to the Guam Police Department within five (5) days of learning of animal
19 fighting incidents. Failure to do so shall result in potential loss of licensure if deemed
20 appropriate by the appropriate licensure agencies. Any veterinarians, physicians, or
21 health professionals making a report under this Subsection shall be immune from
22 any civil or criminal liability by reason of making the report, unless the report was
23 made in bad faith.

24 **§ 70.40. Sexual Assault of an Animal.**

25 (a) A person commits the crime of Sexual Assault of an Animal if the person
26 knowingly:

27 (1) touches or contacts, or causes an object or another person to touch or

1 contact, the mouth, anus, or sex organs of an animal or animal carcass for the
2 purpose of arousing or gratifying the sexual desire of a person; or

3 (2) causes an animal or animal carcass to touch or contact, the mouth, anus,
4 or sex organs of a person for the purpose of arousing or gratifying the sexual
5 desire of a person.

6 (b) Sexual Assault of an Animal is a third degree felony.

7 (c) Each act in violation of Subsection (a) of this Section shall constitute a
8 separate offense.

9 **§ 70.45. Bodily Alterations, Disablements, or Removals.**

10 (a) It is unlawful for any person to remove or permanently alter or disable, or
11 cause or procure to be removed or permanently altered or disabled, any part or organ,
12 or the function of any part or organ, of an animal, except as necessary for proper and
13 lawful veterinary care, population control, or good animal husbandry; provided, that
14 population control or good animal husbandry is under the supervision or instruction
15 of a licensed veterinarian, and:

16 (1) all surgical procedures must be performed or supervised by a licensed
17 veterinarian in accordance with the American Veterinarian Medical Association
18 policy, and the veterinarian shall counsel pet owners about the matter before
19 agreeing to perform these surgeries and shall record said consultation in the pet's
20 record; and

21 (2) any person performing procedures for population control of livestock or
22 good animal husbandry for livestock may do so without direct supervision of a
23 licensed veterinarian; provided, that said person has been properly trained by a
24 licensed veterinarian and properly conducts said procedures in accordance with
25 generally accepted industry standards.

26 (b) A violation of Subsection (a) of this Section is a misdemeanor.

27 (c) Each act in violation of Subsection (a) of this Section shall constitute a

1 separate offense.

2 **§ 70.50. Animal Abandonment.**

3 (a) A person commits the offense of Animal Abandonment if the person
4 intentionally, knowingly, or recklessly leaves a domestic animal at a location
5 without providing for the animal’s minimum care as defined in § 70.10.1(g) of this
6 Article.

7 (b) Animal Abandonment is a violation ~~that shall be subject to a fine of not more~~
8 ~~than Five Hundred Dollars (\$500).~~

9 (c) Each act in violation of Subsection (a) of this Section shall constitute a
10 separate offense.

11 ~~**§ 70.55. Failure of a Motorist to Render Aid to an Injured Animal.**~~

12 ~~(a) A person who, while operating a motor vehicle, knowingly injures or kills a~~
13 ~~cat, dog, or livestock, excluding chickens, shall stop and render such assistance as~~
14 ~~may be possible and safe to provide, and shall immediately report such injury or~~
15 ~~death to the animal’s owner. In the event the owner cannot be ascertained and~~
16 ~~located, or it is unsafe to make contact with the animal’s owner, the operator of the~~
17 ~~motor vehicle shall immediately report the accident and location to a peace officer~~
18 ~~or animal control officer.~~

19 ~~(b) A violation of Subsection (a) of this Section shall be punishable by a fine of~~
20 ~~not more than Three Hundred Dollars (\$300) per offense.~~

21 **§ 70.60. Leaving Animals Unattended in Motor Vehicles; Penalty; Authority of**
22 **Officers.**

23 (a) For the purposes of this Section:

24 (1) *Vehicle* means a car, truck, camper, trailer, or other form of transportation
25 in which an animal can be transported.

26 (2) *Extreme temperature* means an extremely cold or high temperature,
27 inside ~~or outside~~ of a vehicle, that could endanger an animal’s health, safety, or

1 well-being.

2 (b) A person shall not confine an animal in a vehicle in a manner that could
3 reasonably be expected to threaten the health, safety, and well-being of the animal
4 due to conditions that include, but are not limited to, extreme temperatures, lack of
5 adequate ventilation, lack of food or water, or confinement with a vicious or
6 dangerous animal, or other circumstances that could reasonably be expected to cause
7 suffering, disability, physical injury, or death to the animal.

8 (c) After making reasonable efforts to locate the vehicle's owner, an animal
9 control officer, peace officer, law enforcement officer, or firefighter may enter a
10 vehicle by any reasonable means to protect the health, safety and well-being of an
11 animal who is endangered by confinement in a vehicle. A peace officer, law
12 enforcement officer, animal control officer, or firefighter may enter the vehicle for
13 the sole purpose of assisting the animal and may not search the vehicle or seize items
14 found in the vehicle unless otherwise permitted by law.

15 (d) An animal control officer, peace officer, law enforcement officer, or
16 firefighter who removes or otherwise retrieves an animal under this Section shall:

17 (1) leave written notice in a secure and conspicuous location on or in the
18 vehicle bearing the officer's or firefighter's name and title, and the address of
19 the location where the animal may be retrieved; and

20 (2) take the animal to a veterinary clinic or animal shelter for a health
21 screening and treatment.

22 (e) An animal control officer, peace officer, law enforcement officer, or
23 firefighter who removes or otherwise retrieves an animal from a vehicle under this
24 Section shall be immune from criminal or civil liability that might otherwise result
25 from the removal.

26 (f) Penalties.

27 (1) A person in violation of Subsection (b) of this Section shall be subject to

1 a fine of not more than Five Hundred Dollars (\$500).

2 (2) The owner may retrieve the animal removed by an officer or firefighter
3 only after payment of all charges that have accrued for the maintenance, care,
4 medical treatment, and impoundment of the animal.

5 **§ 70.65. Defenses; Exceptions.**

6 (a) It is an affirmative defense in a prosecution for violation of animal abuse
7 under § 70.25 (a) of this Article if:

8 (1) the defendant reasonably and humanely caused the death of the animal
9 to end its immediate and intractable suffering; or

10 (2) the animal posed a present and immediate danger to the safety of people,
11 and the defendant took reasonable measures necessary to protect against serious
12 bodily harm, or death, to themselves or other people, livestock, or domestic
13 animals.

14 (b) Ownership shall not be a defense.

15 (c) Guardianship shall not be a defense.

16 (d) Trespass by an animal shall not be a defense.

17 (e) Corporations and other nonhuman legal entities may be concurrently charged
18 for acts in violation of any animal protection offense committed by their employees
19 or agents when the act is committed in the normal course and scope of the
20 employment or agency.

21 (f) It is no defense to the crime of animal abandonment that the defendant
22 abandoned the animal at or near an animal shelter, veterinary clinic, or other place
23 of shelter if the defendant did not make reasonable arrangements for the care of the
24 animal.

25 (g) Sections 70.10 to 70.85 of this Article shall not apply to:

26 (1) the proper shooting or taking of game in such manner and at such times
27 as is allowed or provided by the laws of Guam;

1 ~~(2) cockfighting in a manner and at such times and places as are authorized~~
2 ~~by law;~~

3 ~~(32) the proper killing of animals used for food, except for dogs and cats, in~~
4 ~~accordance with the law;~~

5 (43) the proper disinfection of rodents and brown tree snakes;

6 (54) animals properly used for education or research purposes by, or under
7 the oversight of, the Guam Community College or the University of Guam;
8 provided, that proper Institutional Review Board procedures and all applicable
9 local and federal laws are followed;

10 (65) euthanasia as properly conducted by a licensed veterinarian, or
11 individual authorized by § 70.70 of this Article, and done in accordance with
12 local law and generally accepted industry practice;

13 (76) the proper disinfection of animals deemed a disease vector and threat
14 to public health by the Department of Public and Social Services; provided, that
15 disinfection is done in accordance with established procedures approved by
16 said Department;

17 (87) the proper disinfection of species deemed invasive to Guam by the
18 Guam Invasive Species Council; provided, that disinfection is done in
19 accordance with established procedures approved by said Council.

20 (A) Subsection (g)(87) of this Section shall not pertain to cats or dogs,
21 except as authorized by the Director of the Department of Agriculture, and
22 such disinfection efforts are done in accordance with accepted practices of
23 veterinary medicine and procedures approved by the Council.

24 **§ 70.70. Euthanasia Procedures.**

25 (a) Unless otherwise authorized by law, sodium pentobarbital and such other
26 agents as may be specifically approved by the Guam Board of Allied Health

1 Examiners shall be the only methods used for euthanasia of an animal. A lethal
2 solution shall be used in the following order of preference:

3 (1) intravenous injection by hypodermic needle;

4 (2) intraperitoneal injection by hypodermic needle;

5 (3) intracardial injection by hypodermic needle, but only if performed on
6 heavily sedated, anesthetized, or comatose animals; or

7 (4) solution or powder added to food.

8 (b) An animal may be tranquilized with an approved and humane substance
9 before euthanasia is performed.

10 (c) Succinylcholine chloride, curare, curariform mixtures, strychnine, nicotine,
11 chloral hydrate, magnesium, potassium, or any substance which acts as a
12 neuromuscular blocking agent, or any chamber which causes a change in body
13 oxygen, may not be used on any animal for the purpose of euthanasia.

14 (d) Euthanasia shall be performed only by a licensed veterinarian, trained animal
15 control officers, or an employee or agent, in accordance with § 121906 of Article
16 19, Part 2, Chapter 12, Title 10, Guam Code Annotated.

17 (e) An animal may not be left unattended between the time euthanasia
18 procedures are first begun and the time that death occurs, and the animal's body may
19 not be disposed of until a licensed veterinarian, or person, as authorized by § 121906
20 of Article 19, Part 2, Chapter 12, Title 10, Guam Code Annotated, confirms death.

21 (f) Notwithstanding the provisions of this Section or any other law to the
22 contrary, whenever an emergency situation exists which requires the immediate
23 euthanasia of a seriously injured, dangerous, or severely diseased animal, a peace
24 officer or veterinarian may humanely destroy the animal.

25 (g) The remains of the euthanized animal shall be properly disposed of in
26 accordance with Guam law.

27 (h) Any violation of this Section is a misdemeanor.

1 (i) Each act or omission in violation of this Section shall constitute a separate
2 offense.

3 **§ 70.75. Pre-Trial Provisions.**

4 (a) Reporting and Immunity.

5 (1) The following designees, having a good-faith belief that any animal with
6 whom the designee comes in contact has suffered a violation of this Article or
7 that any person with whom the designee comes in contact has committed a
8 violation of this Article, may report, or cause a report to be made to the Animal
9 Control Division of the Department of Agriculture:

10 (A) a police officer; or

11 (B) a licensed social worker.

12 (2) Any designee making a report under this Subsection shall not be required
13 to report such information communicated by a person if the communication is
14 privileged under Guam law.

15 (3) Any designee making a report under this Subsection shall be immune
16 from any civil or criminal liability by reason of making the report, unless the
17 report was made in bad faith.

18 (b) Law Enforcement Policies.

19 (1) All officers as defined in § 70.15 of this Article have the duty and
20 responsibility to enforce this Article to the extent authorized by law.

21 (2) All volunteer animal control officers, volunteer conservation officers, or
22 similar volunteer law enforcement officers, whose positions are established by
23 the government of Guam, have the duty and responsibility to enforce this Article
24 to the extent authorized by law.

25 (c) Seizure.

26 (1) Search and Seizure With a Warrant. If there is probable cause to believe
27 that an animal is being subjected to treatment in violation of this Article, an

1 officer, after obtaining a search warrant, shall enter the premises where the
2 animal is located and seize the animal.

3 (2) Search and Seizure Without a Warrant. If an officer witnesses a situation
4 in which the officer determines that an animal's life is in jeopardy and immediate
5 action is required to protect the animal's health or safety, the officer may seize
6 the animal without a warrant. The officer shall immediately take an animal
7 seized under this Subsection to a licensed veterinarian or animal shelter for
8 medical attention to stabilize the animal's condition and to assess the health of
9 the animal.

10 (3) Any person or facility receiving an animal seized pursuant to this
11 Subsection shall provide the animal with minimum care.

12 (4) An officer shall not be liable for any damages for an entry under this
13 Subsection.

14 (5) Any guardian of an animal that is impounded pursuant to this Subsection
15 shall, within seventy-two (72) hours following the seizure, be given written
16 notice of the seizure and legal remedies available to the guardian. The written
17 notice shall be posted at the place of seizure, or delivered to an employee at the
18 place of impoundment, or by registered mail if the guardian is known.

19 (6) The guardian from whom an animal is seized pursuant to this Subsection
20 shall, within seventy-two (72) hours following the seizure, be given written
21 notice of the seizure and legal remedies available to the guardian. The notice
22 shall, at a minimum, be given by posting at the place of seizure, or by delivery
23 to a person residing or working at the place of seizure, or by certified mail. Such
24 notice shall include:

25 (A) the name, business address, and telephone number of the law
26 enforcement entity responsible for seizing the animal;

27 (B) a description of the seized animal;

1 (C) the authority and purpose for the seizure, including the time, place,
2 and circumstance under which the animal was seized; and

3 (D) a statement that the guardian is responsible for the cost of care for an
4 animal who was lawfully seized, and that the guardian will be required to
5 post a bond with the court to defray the cost of care or the animal will be
6 deemed forfeited.

7 (d) Costs-of-Care Bonds.

8 (1) An animal that has been impounded pending outcome of a criminal case,
9 including charges under this Article, may prevent disposition of the animal by a
10 caregiving agency that has temporary custody of the animal by posting a bond
11 with the court in an amount the court determines is sufficient to provide for the
12 animal's minimum care for at least thirty (30) days, including the day on which
13 the animal was taken into custody.

14 (A) Such bond shall be filed with the court within ten (10) days after the
15 animal is impounded. If a bond is not so posted, the animal shall be deemed
16 forfeited and the custodial caregiving agency shall determine final
17 disposition of the animal in accordance with reasonable practices for the
18 humane treatment of animals. At the end of the time for which expenses are
19 covered by the bond, if the owner, guardian, or person in possession of an
20 animal, desires to prevent disposition of the animal by the custodial
21 caregiving agency, a new bond shall be posted with the court within ten (10)
22 days following the prior bond's expiration.

23 (B) If a new bond is not so posted, the animal shall be deemed forfeited
24 and the custodial caregiving agency shall determine final disposition of the
25 animal in accordance with reasonable practices for the humane treatment of
26 animals.

27 (C) However, nothing in this Subsection shall prohibit the immediate

1 disposition of the animal by euthanasia if, in the opinion of a licensed
2 veterinarian, the animal is experiencing intractable extreme pain or suffering.
3 The guardian shall be liable for all costs of providing minimum care, or
4 disposal of the animal.

5 (2) If a bond has been posted in accordance with Subsection (d)(1) of this
6 Section, the custodial caregiving agency may draw from the bond the actual
7 reasonable costs incurred by the agency in providing minimum care to the seized
8 animal from the date of initial seizure to the date of final disposition of the animal
9 in the criminal action.

10 (e) Protective Orders.

11 (1) A mandatory restraining order is created against any person charged with
12 a felony under this Article.

13 (2) The order may remain in effect from the time that the defendant is advised
14 of their rights at arraignment or the defendant's first appearance before the court
15 and informed of such order, until final disposition of the action.

16 (3) The order may restrain the defendant from contacting, harassing,
17 molesting, intimidating, retaliating against, or tampering with:

18 (A) any animal(s) victimized by the acts charged;

19 (B) any guardian or owner, other than the defendant, of such animal(s);

20 or

21 (C) any witness to the acts charged.

22 (4) Any restraining order issued pursuant to Subsection (e) of this Section,
23 shall be on a standardized form prescribed by the Superior Court of Guam.

24 (5) A copy of the restraining order shall be provided to the protected parties.

25 (6) The court may include an animal in any protective order authorized by
26 this Article.

1 **§ 70.80. Sentencing Provisions.**

2 (a) Community Service. In addition to any other sentence it may impose, the
3 court may order the defendant to participate in community service. No such
4 participation shall occur at any humane society, animal shelter, or other facility
5 where an animal is present, unless first approved by said organization.

6 (b) Evaluation & Treatment.

7 (1) In addition to any other sentence it may impose, the court ~~shall~~may order
8 the defendant convicted of a felony crime under this Article to undergo a
9 psychiatric, psychological, or mental health evaluation, and if warranted by the
10 condition of the defendant, ~~shall~~may order the defendant to undergo appropriate
11 care or treatment.

12 (23) Treatment may include, but is not limited to, counseling and humane
13 education classes.

14 (34) Treatment may be conducted in-person or online.

15 (45) All costs of the evaluation, care and treatment shall be borne by the
16 defendant. However, if the court determines that the defendant is indigent, the
17 government of Guam may provide access to government funded or government
18 contracted service providers, if available.

19 (c) Education. The Department of Agriculture shall make available educational
20 material and information regarding proper animal care and welfare to the defendant.
21 At a minimum, such information shall be made available in printed form or online,
22 as deemed appropriate by the Department of Agriculture.

23 (d) Forfeiture. In addition to any other sentence it may impose, the court shall
24 require a defendant convicted under this Article to forfeit all legal interest of the
25 defendant in the animal subjected to the violation. The court shall award all such
26 interest to the animal to a caregiving agency.

27 (e) Contact with Animals.

1 (1) In addition to any other penalty imposed by law, a court may require a
2 defendant convicted of a felony under this Article to not own, possess, or have
3 custody or control of any animal for a minimum period of five (5) years on a
4 first offense; and for a minimum period of fifteen (15) years on a second or
5 subsequent offense.

6 (2) A violation of this Subsection is a petty misdemeanor and shall result in
7 the forfeiture of the offender's interest in the animal.

8 (3) Notwithstanding any other provision of law, an officer may immediately
9 seize any animal found to be kept in violation of this Subsection.

10 (f) Reimbursement of Costs to Caregiving Agency. In addition to any other
11 sentence it may impose, the court shall require a defendant convicted under this
12 Article to repay all reasonable costs incurred by any person or organization prior to
13 judgment in seizing and providing minimum care for each animal subjected to
14 mistreatment in violation of this Article.

15 (g) Restitution to Guardian. In addition to any other sentence it may impose, the
16 court shall order that restitution be made by a defendant convicted under this Article
17 to the guardian of any animal subjected to mistreatment by the defendant in violation
18 of this Article. The measure for restitution shall be the actual pecuniary value of such
19 loss, including, but not limited to, the actual veterinary expenses, special supplies,
20 and other costs incurred by the animal's guardian in treating the animal and in
21 attempting to restore the animal to good health or to otherwise ameliorate the effects
22 of the criminal violation.

23 **§ 70.85. Civil Right of Action for the Wrongful Injury or Death of an Animal.**

24 (a) Any person who, with no lawful authority, intentionally, knowingly,
25 recklessly, or with criminal negligence causes physical injury to, or the death of, an
26 animal shall be liable to the animal's guardian for the damages sustained by the
27 guardian. The guardian of the animal may bring a civil action to recover such

1 damages. Damages may include the pecuniary value of the animal; veterinary
2 expenses incurred on behalf of the animal; any other expenses incurred by the
3 guardian in attempting to ameliorate the effects of, or as a consequence of, the pain,
4 suffering or injuries of the animal; any emotional distress and loss of companionship
5 suffered by the guardian; all court costs and reasonable attorney's fees incurred in
6 the prosecution of any action under this Section; and any other reasonable damages
7 resulting from the physical injury or death of the animal.

8 (b) Restraining orders and other injunctive relief may be issued by the Superior
9 Court of Guam as appropriate.

10 (c) The remedies provided in this Section are in addition to, and do not replace
11 or supplant, any other remedies allowed by law.

12 (d) Commencement of a cause of action under this Section shall be brought
13 within three (3) years from the date on which damages were first identified by the
14 guardian.

15 ARTICLE 2

16 DISCRIMINATION IN HOUSING ACCOMMODATIONS

17 § 70.210. Declaration of Policy.

18 It is hereby declared to be the policy of the territory of Guam in the exercise of
19 its police power for the public safety, public health and general welfare to assure
20 equal opportunity to all persons to live in decent housing facilities regardless of race,
21 color, religion, sex or national origin and, to that end, to prohibit discrimination in
22 housing by any person.

23 § 70.220. Definitions.

24 When used in this Article:

25 (a) Discrimination or discriminatory housing practice means any difference
26 in treatment based upon race, color, religion, sex or national origin, or any act
27 that is unlawful under this Article;

1 (b) Financial institution includes any person, as defined herein, engaged in
2 the business of lending money or guaranteeing losses;

3 (c) Housing accommodation or dwelling means any building, mobile home
4 or trailer, structure or portion thereof which is occupied as or designed, or
5 intended for occupancy as a residence by one or more families, and any vacant
6 land which is offered for sale or lease for the construction or location thereon of
7 any such building, mobile home or trailer, structure or portion thereof, or any
8 real property, as defined herein, used or intended to be used for any of the
9 purposes set forth in this Subsection;

10 (d) Mortgage broker means an individual who is engaged in or who performs
11 the business or services of a mortgage broker as the same are defined in the
12 Government Code;

13 (e) Open market means the market which is informed of the availability for
14 sale, purchase, rental or lease of any housing accommodation, whether informed
15 through a real estate broker or by advertising by publication, signs or by any
16 other advertising methods directed to the public or any portion thereof,
17 indicating that the property is available for sale, purchase, rental or lease;

18 (f) Owner includes a lessee, sub-lessee, cotenant, assignee, managing agent
19 or other person having the right of ownership or possession, or the right to sell,
20 rent or lease any housing accommodation;

21 (g) Person includes individuals, children, firms, associations, joint
22 adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries,
23 corporations and all other groups or combinations;

24 (h) Real property includes buildings, structures, lands, tenements,
25 leaseholds, cooperatives and condominiums; and

26 (i) Real estate broker or real estate salesman includes any individual,
27 qualified by law, who, for a fee, commission, salary or for other valuable

1 consideration, or who with the intention or expectation of receiving or collecting
2 same, lists, sells, purchases, rents or leases any housing accommodations,
3 including options thereupon, or who negotiates or attempts to negotiate such
4 activities; or who advertises or holds himself out as engaged in such activities;
5 or who negotiates or attempts to negotiate a loan, secured by a mortgage or other
6 encumbrance, upon transfer of any housing accommodation; or who is engaged
7 in the business of charging an advance fee or contracting for collecting of a fee
8 in connection with a contract whereby he undertakes or promote the sale,
9 purchase, rental or lease of any housing accommodation through its listing in a
10 publication issued primarily for such purpose; or an individual employed by or
11 acting on behalf of any of these.

12 **§ 70.230. Unlawful Practices.**

13 In connection with any of the transactions set forth in this Section, which affect
14 any housing accommodation on the open market or in connection with any public
15 sale, purchase, rental or lease of any housing accommodation, it shall be unlawful
16 within the Territory for a person, owner, financial institution, real estate broker or
17 real estate salesman, or any representative of the above, to:

18 (a) refuse to sell, purchase, rent or lease, or deny to or withhold any housing
19 accommodation from a person because of his race, color, religion, ancestry,
20 national origin, sex or place of birth;

21 (b) to discriminate against a person in the terms, conditions or privileges of
22 the sale, purchase, rental or lease of any housing accommodation, or in the
23 furnishing of facilities of services in connection therewith;

24 (c) to refuse to receive or transmit a bona fide offer to sell, purchase, rent or
25 lease any housing accommodation from or to a person because of his race, color,
26 religion, ancestry, national origin, sex or place of birth;

1 (d) to refuse to negotiate for the sale, purchase, rental or lease of any housing
2 accommodation to a person because of his race, color, religion, ancestry, national
3 origin, sex or place of birth;

4 (e) to represent to a person that any housing accommodation is not available
5 for inspection, sale, purchase, rental or lease when in fact it is so available, or to
6 refuse to permit a person to inspect any housing accommodation, because of his
7 race, color, religion or national origin, sex or place of birth;

8 (f) to make, publish, print, circulate, post or mail, or cause to be made,
9 published, printed, circulated, posted or mailed, any notice, statement or
10 advertisement, or to announce a policy, or to sign or to use a form or application
11 for the sale, purchase, rental, lease or financing of any housing accommodation,
12 or to make a record of inquiry in connection with the prospective sale, purchase,
13 rental, lease or financing of any housing accommodation, or to make a record of
14 inquiry in connection with the prospective sale, purchase, rental, lease or
15 financing of any housing accommodation, which indicates any discrimination or
16 any intent to make a discrimination;

17 (g) to offer, solicit, accept or use a listing of any housing accommodation for
18 sale, purchase, rental or lease with the understanding that a person may be
19 subjected to discrimination in connection with such sale, purchase, rental or
20 lease, or in the furnishing of facilities or services in connection therewith;

21 (h) to induce directly or indirectly, or attempt to induce directly or indirectly,
22 the sale, purchase, rental or lease, or the listing for any of the above, of any
23 housing accommodation by representing that the presence or anticipated
24 presence of persons of any particular race, color, religion, sex or national origin
25 or place of birth in the area to be affected by such sale, purchase, rental or lease
26 will or may result in either:

27 (1) the lowering of property values in the area;

1 (2) an increase in criminal or antisocial behavior in the area; or

2 (3) a decline in the quality of schools serving the area;

3 (i) to make any misrepresentations concerning the listing for sale, purchase,
4 rental or lease, or the anticipated listing for any of the above, or the sale,
5 purchase, rental or lease of any housing accommodation in any area in the
6 Territory for the purpose of including or attempting to induce any such listing or
7 any of the above transactions;

8 (j) to engage in, or hire to be done, or to conspire with others to commit acts
9 or activities of any nature, the purpose of which is to coerce, cause panic, incite
10 unrest or create or play upon fear, with the purpose of either discouraging or
11 inducing, or attempting to induce, the sale, purchase, rental or lease, or the listing
12 for any of the above, of any housing accommodation;

13 (k) to retaliate or discriminate in any manner against a person because he has
14 opposed a practice declared unlawful by this Article, or because he has filed a
15 complaint, testified, assisted or participated in any manner in any investigation,
16 proceeding, hearing or conference under this Article;

17 (l) to aid, abet, incite, compel or coerce any person to engage in any of the
18 practices prohibited by this Article, or to obstruct or prevent any person from
19 complying with the provisions of this Article, or any order issued thereunder;

20 (m) by canvassing, to commit any unlawful practices prohibited by this
21 Article;

22 (n) otherwise to deny to, or withhold any housing accommodation from a
23 person because of his race, color, religion, ancestry, national origin, sex or place
24 of birth;

25 (o) for any bank, savings and loan association, insurance company or other
26 corporation, association, firm or enterprise whose business consists in whole or
27 in part, in the making of commercial real estate loans, to deny a loan or other

1 financial assistance to a person applying therefor for the purpose of purchasing,
2 constructing, improving, repairing or maintaining a dwelling, or to discriminate
3 against him in the fixing of the amount, interest rate, duration or other terms or
4 conditions of such loans or other financial assistance, because of the race, color,
5 religion, sex or national origin of such person or of any person associated with
6 him in connection with such loan or other financial assistance or the purposes of
7 such loan or other financial assistance or of the present or prospective owners,
8 lessees, tenants or occupants of the dwelling or dwellings in relation to which
9 such loan or other financial assistance is to be made or given; or

10 (p) to deny any qualified person access to or membership or participation in
11 any multiple-listing service, real estate brokers' organization, or other service,
12 organization or facility relating to the business of selling or renting dwellings, or
13 to discriminate against him in the terms or conditions of such access,
14 membership or participation on account of race, color, religion, sex or national
15 origin.

16 **§ 70.240. Exemptions.**

17 This Article shall not apply to:

18 (a) a religious organization, association or society or any nonprofit institution
19 or organization operating, supervised or controlled by or in conjunction with a
20 religious organization, association or society, which limits the sale, rental or
21 occupancy of dwellings which it owns or operates for other than commercial
22 purposes to persons of the same religion, or which gives preference to such
23 persons, unless membership in such a religion is restricted on account of race,
24 color, sex or national origin;

25 (b) a private club not in fact open to the public, which, as an incident to its
26 primary purpose or purposes, provides lodgings which it owns or operates for

1 other than a commercial purpose, and which limits the rental or occupancy of
2 such lodgings to its members or gives preference to its members;

3 (c) any single-family house sold or rented by an owner; provided, that such
4 private individual owner does not own more than three (3) such single-family
5 houses at any one time; provided further, that in the case of the sale of any such
6 single-family house by a private individual owner not residing in such house at
7 the time of such sale or who was not the most recent resident of such house prior
8 to such sale, the exemption granted by this Subsection shall apply only with
9 respect to one such sale within any twenty-four month period; provided further,
10 that such bona fide private individual owner does not own any interest in, nor is
11 there owned or served on his behalf, under any express or voluntary agreement,
12 title to or any right to all or a portion of the proceeds from the sale or rental of,
13 more than three (3) such single-family houses at any one time; provided further,
14 that the sale or rental of any such single-family house shall be excepted from the
15 application of this Article only if such house is sold or rented:

16 (1) without the use in any manner of the sales or rental facilities or the
17 sales or rental services of any real estate broker, agent or salesman, or of
18 such facilities or services of any person in the business of selling or renting
19 dwellings, or of any employee or agent or any such broker, agent, salesman
20 or person; and

21 (2) without the publication, posting or mailing, after notice, of any
22 advertisement or written notice in violation of the provisions of § 70.47 of
23 this Code; but nothing in this provision shall prohibit the use of attorneys,
24 escrow agents, abstractors, title companies and other such professional
25 assistance as necessary to perfect or transfer the title; or

26 (d) rooms or units in dwellings containing living quarters occupied or
27 intended to be occupied by no more than four (4) families living independently

1 or each other, if the owner actually maintains and occupies one of such living
2 quarters as his residence.

3 **§ 70.250. Procedure.**

4 Any person aggrieved by an unlawful practice prohibited by this Article may file
5 a complaint with the Attorney General within thirty (30) days after the aggrieved
6 person becomes aware of the alleged unlawful practice, and in no event shall exceed
7 more than sixty (60) days after the alleged unlawful practice occurred. The Attorney
8 General or his duly authorized representative shall investigate each complaint and
9 attempt to resolve such complaint. Failure to achieve a resolution acceptable to both
10 parties and in compliance with this Article shall cause the Attorney General to
11 commence prosecution.

12 **§ 70.260. Other Remedies.**

13 Nothing herein contained shall prevent any person from exercising any right or
14 seeking any remedy to which he might otherwise be entitled.

15 **§ 70.270. Penalties.**

16 Any person violating any provision of this Article shall, upon conviction thereof,
17 be guilty of a misdemeanor.

18 **ARTICLE 3**

19 **THE GUAM SOCIAL HOST ACT AND**

20 **POSSESSION OF CANNABIS BY PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE**

21 **§ 70.310. Title.**

22 This Article shall be known and may be cited as The Guam Social Host Act.

23 **§ 70.320. Intoxication of Persons Under the Age of Twenty-One.**

24 (a) No person twenty-one (21) years or older shall knowingly give or otherwise
25 make available any alcoholic beverage or cannabis to a person under the age of
26 twenty-one (21) years. A person violates this Section who gives or otherwise makes
27 available an alcoholic beverage or cannabis to a person under the age of twenty-one

1 (21) with the knowledge that the person to whom the alcoholic beverage or cannabis
2 is made available will violate this § 70.53.

3 (b) A person violates this Section who owns, occupies, or controls premises on
4 which alcoholic beverages or cannabis are consumed by any person under twenty-
5 one (21) years of age, and who knows of alcohol or cannabis consumption by persons
6 under twenty-one (21) years of age on such premises, and who reasonably could
7 have prohibited or prevented such alcohol or cannabis consumption.

8 (c) Any person who violates this Section:

9 (1) ~~shall be guilty of a misdemeanor punished by a fine of not more than~~
10 ~~Two Thousand Dollars (\$2,000) or by imprisonment for not more than one (1)~~
11 ~~year or both; and~~

12 (2) in addition to the sentence referenced in Subsection (c)(1) the court *may*
13 require the violator to make restitution for any damages to property or a person
14 caused by a violation of this § 70.53, and *may* require participation in volunteer
15 service to a community service agency.

16 (d) The prohibitions of this Section apply only to a person who is present and in
17 control of the location at the time the consumption occurs. The prohibitions of this
18 Section do not apply to the owner of rental property, or the agent of an owner of
19 rental property, unless the consumption occurs in the individual unit in which the
20 owner or agent resides.

21 (e) This Section *shall not* apply to any religious practice, observance, or
22 ceremony.

23 (f) The violations of this Section and the resulting penalties prescribed herein,
24 *supra*, are in addition to other violations of public law related to alcoholic beverages
25 or cannabis.

1 **§ 70.330. Possession of Cannabis by Persons Under Twenty-one (21) Years of**
2 **Age.**

3 Any person under twenty-one (21) years of age possessing cannabis *shall* be
4 guilty of a ~~petty misdemeanor violation~~ violation and subject to a One Hundred Dollar
5 (\$100.00) fine ~~and suspension of their driver's license for twelve (12) months for the~~
6 ~~first offense and a Two Hundred Fifty Dollar (\$250.00) fine and suspension of their~~
7 ~~driver's license for an additional twelve (12) months for each subsequent possession.~~
8 ~~Suspension of one's driver's license may be waived by the court and replaced with~~
9 ~~one hundred (100) hours of community service for each possession if the guilty~~
10 ~~individual can demonstrate financial or personal hardship resulting from the loss of~~
11 ~~his or her driving privileges. The violation of this Section and the resulting penalties~~
12 ~~prescribed herein are in addition to other violations of public law related to cannabis~~
13 ~~possession.~~

14 **ARTICLE 4**

15 **MISCELLANEOUS CRIMINAL OFFENSES**

16 **§ 70.410. Tattoos, Brands, Scarifications and Piercings; Minors; Violation;**
17 **Classification; Anesthesia; Defense; Definition.**

18 (a) It is unlawful to tattoo a person who is under eighteen (18) years of age
19 without the physical presence of that person's parent or legal guardian.

20 (b) It is unlawful for a person who tattoos or pierces the body of another person
21 to use a needle or ink more than once, or to use a needle that is not pre-sterilized or
22 autoclaved.

23 (c) A person must be a licensed healthcare professional to administer any form
24 of subcutaneous local anesthesia during the course of any procedure involving the
25 branding, scarifying, tattooing or piercing of the body of another person.

1 (d) It is a defense to a prosecution for a violation of Subsection (a) that the person
2 requested age identification, and relied in good faith on the accuracy of the
3 information contained in the identification.

4 (e) A person who violates this Section is guilty of a misdemeanor.

5 (f) For the purposes of this Section, tattoo means any indelible design, letter,
6 scroll, figure, symbol or other mark that is placed on or under the skin with ink or
7 colors by the aid of needles or other instruments, and that cannot be removed without
8 a surgical procedure or any design, letter, scroll, figure or symbol or other mark done
9 by scarring on or under the skin.

10 **§ 70.420. Jet Ski Operation, Tumon Bay and Pago Bay.**

11 No person shall operate a jet ski or water ski within the reef along Tumon Bay
12 and Pago Bay ~~except that a jet ski may be operated in the channel to enter or exit~~
13 ~~Tumon Bay and Pago Bay.~~ This prohibition shall not apply to the use of jet ski for
14 emergency rescue or for law enforcement purposes. Any person who violates this
15 Section is guilty of a misdemeanor.

16 **~~§ 70.430. Unlawful Use of Telephone; Defined & Punished.~~**

17 ~~(a) A person is guilty of unlawfully using a telephone when he:~~

18 ~~(1) refuses to relinquish immediately a party line or public telephone when~~
19 ~~informed that the party line or public telephone is needed for an emergency call~~
20 ~~to the Department of Public Safety, Armed Services Police, Air Sea Rescue or~~
21 ~~for medical aid or ambulance service; or~~

22 ~~(2) secures the use of a party line or public telephone by falsely stating that~~
23 ~~such line or telephone is needed for an emergency.~~

24 ~~(b) As used in this Section, party line means a subscriber's telephone circuit~~
25 ~~consisting of two (2) or more named telephone stations connected therewith, each~~
26 ~~station having a distinctive ring or telephone number.~~

1 ~~(c) As used in this Section, public telephone means a telephone available for~~
2 ~~public use.~~

3 ~~(d) As used in this Section, emergency means a situation in which property or~~
4 ~~human life is in jeopardy and the prompt summoning of aid is essential.~~

5 ~~(e) Unlawfully using a telephone, as defined in Paragraph (1) of Subsection (a)~~
6 ~~of this Section, is a misdemeanor. Otherwise, it is a violation.~~

7 **§ 70.440. Revealing Expunged Record Prohibited.**

8 A person is guilty of a misdemeanor if he permits to be made public or reveals
9 to any person not entitled to review it any official record of the court, Attorney
10 General or any other entity of the government of Guam which has been expunged in
11 accordance with § 271 of the Code of Civil Procedure or Chapter 11 of Title 8 GCA.

12 **~~§ 70.450. Blacklisting Employees.~~**

13 ~~(a) If any person, agent, company, corporation, public official, or governmental~~
14 ~~agency, after having discharged any employee from his or its service, shall prevent~~
15 ~~or attempt to prevent by word or writing of any kind of untrue statement, or, in any~~
16 ~~manner, conspires or contrives, by correspondence or otherwise by means of an~~
17 ~~untrue statement, to prevent, such discharged employee from obtaining employment~~
18 ~~with any other person, company, corporation or governmental agency, such person,~~
19 ~~agent, corporation or public official is guilty of a petty misdemeanor and shall be~~
20 ~~punished by a fine not exceeding Five Hundred Dollars (\$500.00) for each violation;~~
21 ~~and such person, agent, company, corporation, elected or appointed public official,~~
22 ~~or governmental agency shall be liable in civil/penal damages to such discharged~~
23 ~~person, to be recovered by civil action. This Section shall not be construed as~~
24 ~~prohibiting any person or agent of any company or corporation from furnishing in~~
25 ~~writing, upon request, to any other person, company or corporation to whom such~~
26 ~~discharged person or employee has applied for employment, a truthful statement of~~
27 ~~the reason for such discharge.~~

1 ~~(b) An employer, employee or other person, by threats of injury, intimidation or~~
2 ~~force, alone or in combination with others, may not prevent a person from entering~~
3 ~~into, continuing in or leaving the employment of any person, firm, governmental~~
4 ~~office/agency or corporation. Any person who violates this paragraph is guilty of a~~
5 ~~misdemeanor and shall be punished by a fine not exceeding One Thousand Dollars~~
6 ~~(\$1,000.00) for each violation; and such person, agent, company, corporation,~~
7 ~~elected or appointed public official, governmental agency shall be liable in~~
8 ~~civil/penal damages to such discharged person, to be recovered by civil action.~~

9 ~~(c) An employer who in good faith provides information requested by a~~
10 ~~prospective employer about the reason for termination of a former employee or about~~
11 ~~the job performance, professional conduct or evaluation of a current or former~~
12 ~~employee is immune from civil liability for the disclosure or the consequences of~~
13 ~~providing the information. There is a presumption of good faith if either:~~

14 ~~(1) The employer employs less than one hundred (100) employees and~~
15 ~~provides only the information authorized by this Subsection.~~

16 ~~(2) The employer employs at least one hundred (100) employees and has a~~
17 ~~regular practice in Guam of providing information requested by a prospective~~
18 ~~employer about the reason for termination of a former employee or about the job~~
19 ~~performance, professional conduct or evaluation of a current or former~~
20 ~~employee.~~

21 ~~(d) The presumption of good faith under Subsection (c) of this Section is~~
22 ~~rebuttable by showing that the employer disclosed the information with actual~~
23 ~~malice or with intent to mislead. This Subsection and Subsection (c) of this Section~~
24 ~~do not alter any privileges that exist under common law. For the purposes of this~~
25 ~~Subsection, “actual malice” means knowledge that the information was false or was~~
26 ~~provided with reckless disregard of its truth or falsity.~~

27 ~~(e) Communications concerning employees or prospective employees that are~~

1 ~~made by an employer or prospective employer, or by a labor organization, to a~~
2 ~~government body or agency and that are required by law or that are furnished~~
3 ~~pursuant to written rules or policies of the government body or agency are privileged.~~

4 ~~(f) An employer, including the government of Guam and its agencies, a labor~~
5 ~~organization or an individual is not civilly liable for privileged communications~~
6 ~~made pursuant to Subsection (e) of this Section.~~

7 ~~(g) In response to a request by another bank, savings and loan association, credit~~
8 ~~union, escrow agent, commercial mortgage banker, mortgage banker or mortgage~~
9 ~~broker it is not unlawful for a bank, a savings and loan association, a credit union,~~
10 ~~an escrow agent, a commercial mortgage banker, a mortgage banker or a mortgage~~
11 ~~broker to provide a written employment reference that advises of the applicant's~~
12 ~~involvement in any theft, embezzlement, misappropriation or other defalcation that~~
13 ~~has been reported to federal authorities pursuant to federal banking guidelines or~~
14 ~~reported to the department of financial institutions. In order for the immunity~~
15 ~~provided in Subsection (h) of this Section to apply, a copy of the written employment~~
16 ~~reference must be sent by the institution providing the reference to the last known~~
17 ~~address of the applicant in question.~~

18 ~~(h) No bank, savings and loan association, credit union, escrow agent,~~
19 ~~commercial mortgage banker, mortgage banker or mortgage broker shall be civilly~~
20 ~~liable for providing an employment reference unless the information provided is~~
21 ~~false and the bank, savings and loan association, credit union, escrow agent,~~
22 ~~commercial mortgage banker, mortgage banker or mortgage broker providing the~~
23 ~~false information does so with knowledge and malice.~~

24 ~~(i) A court shall award court costs, attorney fees and other related expenses to~~
25 ~~any party that prevails in any civil proceeding in which a violation of this Section is~~
26 ~~alleged.~~

1 (a) It shall be unlawful for any person to bring or possess a ~~loaded~~ firearm upon
2 the grounds of a campus of, or buildings owned or operated for student housing,
3 teaching, research, or administration by, a public or private university or college,
4 that are contiguous or are clearly marked university property, unless it is with the
5 written permission of the university or college president, his or her designee, or
6 equivalent university or college authority. Notwithstanding § 71.80, a university or
7 college shall post a prominent notice at primary entrances on noncontiguous
8 property stating that firearms are prohibited on that property pursuant to this Section.

9 ~~(b) It shall be unlawful for any person to bring or possess a firearm upon the~~
10 ~~grounds of a campus of, or buildings owned or operated for student housing,~~
11 ~~teaching, research, or administration by, a public or private university or college,~~
12 ~~that are contiguous or are clearly marked university property, unless it is with the~~
13 ~~written permission of the university or college president, his or her designee, or~~
14 ~~equivalent university or college authority. Notwithstanding Section § 71.80, a~~
15 ~~university or college shall post a prominent notice at primary entrances on~~
16 ~~noneontiguous property stating that firearms are prohibited on that property pursuant~~
17 ~~to this Section.~~

18 **§ 71.60. Punishment.**

19 Any person who ~~violates~~ is convicted of violating § 71.30, § 71.40, or § 71.50
20 of this Act shall be guilty of a felony of the third degree and ~~any person who is~~
21 ~~convicted of an offense pursuant to § 71.30, § 71.40, or § 71.50~~ shall be sentenced
22 as follows:

23 (a) For a first offense, the Court shall impose a sentence of imprisonment of
24 no more than three (3) years, a fine of not less than One Thousand Dollars
25 (\$1,000.00), and mandatory community service of no less than one hundred and
26 fifty (150) hours.

27 (b) In cases where the person has been convicted of felonies under any

1 provision of this Chapter, the person shall be sentenced to a term of
2 imprisonment which shall not be less than five (5) years and in addition, may be
3 fined not more than Fifteen Thousand Dollars (\$15,000.00). The sentence, ~~if for~~
4 ~~a term of years,~~ shall include a special parole term of not less than one (1) year
5 in addition to such term of imprisonment. Imposition or execution of such
6 sentence shall not be suspended, and probation shall not be granted. Sentence in
7 these cases must also include mandatory community service of no less than one
8 hundred fifty (150) hours unless the term of imprisonment is for life.

9 (c) The Court shall apply any minimum sentence, fine or community service
10 specified in this Section, except in unusual cases where the interests of justice
11 would best be served ~~by granting probation or suspending the execution or~~
12 ~~imposition of sentence without the minimum imprisonment, fine or community~~
13 ~~service required in this Subdivision or~~ by granting probation or suspending the
14 execution or imposition of sentence, fine or community service with conditions
15 other than those set forth in this Section, in which case the Court shall specify
16 on the record and shall enter on the minutes the circumstances indicating that the
17 interests of justice would best be served by this disposition.

18 **§ 71.61. Information for Sentencing.**

19 Except as otherwise provided in 9 GCA Chapter 80 ~~of Title 9 of the Guam Code~~
20 ~~Annotated~~, no limitation shall be placed on the information concerning the
21 background, character and conduct of a person convicted of an offense which the
22 Superior Court of Guam may receive and consider for the purpose of imposing an
23 appropriate sentence under this Chapter.

24 **~~§ 71.70. What Constitutes a Loaded Firearm.~~**

25 ~~For purposes of this Chapter, a firearm shall be deemed to be loaded when there~~
26 ~~is an unexpended cartridge or shell, consisting of a case that holds a charge of~~
27 ~~powder and a bullet or shot, in, or attached in any manner to, the firearm, including,~~

1 but not limited to, in the firing chamber, magazine, or clip thereof attached to the
2 firearm. A muzzle loader firearm shall be deemed to be loaded when it is capped or
3 primed and has a powder charge and ball or shot in the barrel or cylinder.

4 **§ 71.80 ~~71.70~~. Notice.**

5 (a) The Department of Education and other entities covered by this Chapter shall
6 post permanent signs with large visible lettering stating at a minimum, “Warning this
7 is a Gun-Free Zone” at the main entrances of the covered facilities within their
8 control ~~on or before January 1, 2005~~. This Section does not require that notice be
9 posted regarding the proscribed conduct for the purposes of prosecution of any
10 violation of this Act.

11 (b) ~~The Guam Police Department within sixty (60) days of the effective date~~
12 ~~of this Act shall implement a public relations campaign to inform the general public~~
13 ~~of its provisions.~~

14 **§ 71.81 ~~71.80~~. Chapter Not Applicable to Peace Officers and Military.**

15 (a) This Chapter does not apply to a duly appointed peace officer as defined in §
16 GCA § 5.55, Article 2, Chapter 5, Title 8, Guam Code Annotated, a full-time paid
17 peace officer of another state or the Federal government who is carrying out official
18 duties while in Guam, any person summoned by any of these officers to assist in
19 making arrests or preserving the peace while he or she is actually engaged in
20 assisting the officer, a member of the military forces of Guam or of the United States
21 who is engaged in the performance of his or her duties, or an armored vehicle guard
22 engaged in the performance of his or her duties.

23 **§ 71.82. ~~Not Applicable to Security Guards.~~**

24 (b) This Chapter does not apply to an on-duty security guard authorized to carry
25 a loaded firearm, provided the security guard is an employee of an entity contracted
26 by the school for security purposes.

27 **§ 71.83. ~~Not Applicable to Existing Shooting Ranges.~~**

1 (c) This Chapter does not apply to an existing shooting range at a public or
2 private school or university or college campus.

3 **§ 71.90. Severability.**

4 If any provision of this Act or its application to any person or circumstances is
5 found to be invalid or contrary to law, such invalidity shall not affect other provisions
6 or applications of this Act which can be given effect without the invalid provisions
7 or applications, and to this end the provisions of this Act are severable.

8 **Section 25. The Compiler of Laws is authorized to remove reference**
9 **to Chapter 86 in Title 9, Guam Code Annotated, pursuant to the authority**
10 **granted in 1 GCA Chapter 16.**

11 **CHAPTER 86**

12 ~~**COMPENSATION FOR DAMAGES FROM CRIMINAL ACTIVITIES**~~

13 ~~**NOTE:** This Chapter was added by P.L. 20-155:2 (Mar. 21, 1990); amended and~~
14 ~~moved by P.L. 27-138:4 (Dec. 30, 2004) to Chapter 161, Title 8, Guam Code~~
15 ~~Annotated.~~

16 **Section 26. The Compiler of Laws is authorized to remove reference**
17 **to Chapter 87 in Title 9, Guam Code Annotated, pursuant to the authority**
18 **granted in 1 GCA Chapter 16.**

19 **CHAPTER 87**

20 ~~**VICTIM NOTIFICATION**~~

21 ~~**NOTE:** This Chapter was enacted by P.L. 20-155:1 (Mar. 21, 1990) as Chapter 85.~~
22 ~~Since Chapter 85 was occupied, renumbered and codified by Compiler as Chapter~~
23 ~~87. Repealed in its entirety by P.L. 27-138:3 (Dec. 30, 2004).~~

24 **Section 27. Chapter 90, Title 9, Guam Code Annotated, is hereby *repealed***
25 ***and reenacted* in its entirety as follows, and Article 3 of this Chapter, regarding**
26 **the Interstate Compact on Juveniles, may be moved by the Compiler of**

1 **Laws, pursuant to the authority granted in 1 GCA Chapter 16, to 19 GCA**
2 **Chapter 20 regarding the Department of Youth Affairs.**

3 **CHAPTER 90**

4 **CORRECTIONS**

5 **ARTICLE 1**

6 **DEPARTMENT OF CORRECTIONS**

7 **§ 90.10. Definitions.**

8 As used in this Chapter:

9 (a) Director means the Director of Corrections.

10 (b) Department means the Department of Corrections.

11 (c) Detainee means a person temporarily committed to the custody of the
12 Director, including but not limited to commitment due to pretrial status, federal
13 hold, probation violation, or parole violation.

14 (d) Inmate means a person committed to the custody of the Director post-
15 adjudication, after imposition of a sentence to a term of imprisonment.

16 (e) Prisoner means a person committed to the custody of the Director as a
17 detainee or inmate.

18 **§ 90.15. ~~General Duties of Department of Corrections.~~ Mission Statement.**

19 ~~The Department shall protect the public from the destructive action of law~~
20 ~~offenders through control and rehabilitation. It shall provide staff services for the~~
21 ~~judiciary, the Parole Board, probation officers and interested agencies of the~~
22 ~~Executive Branch.~~

23 To promote public safety through custody and control of criminal offenders
24 while providing a safe and humane environment for their treatment, rehabilitation,
25 and reintegration back into the community as productive citizens.

26 **§ 90.16. Minimum Qualifications for Department of Corrections Officers.**

1 (a) Notwithstanding other provisions of law to the contrary, persons appointed
2 as Corrections Officer ~~shall~~ meet the qualifications for employment as a peace
3 officer as defined by the Peace Officer Standards and Training Commission in 17
4 GCA § 51104 and applicable rules and regulations.

5 (1) ~~be a resident of Guam and a U.S. citizen;~~

6 (2) ~~be of good health and good moral character;~~

7 (3) ~~be over the age of eighteen (18) years;~~

8 (4) ~~be a high school graduate or equivalent, but the POST Commission may~~
9 ~~set higher academic qualifications for all applicants as the Commission considers~~
10 ~~necessary;~~

11 (5) ~~submit to and pass a drug screening test, including, but not limited to, a~~
12 ~~urinalysis test;~~

13 (6) ~~submit to psychological testing; and~~

14 (7) ~~submit to a polygraph examination.~~

15 (b) ~~No person shall be appointed as a Corrections Officer who has not established~~
16 ~~satisfactory evidence of qualifications by passing a physical examination, which~~
17 ~~shall include a physical agility test, and written examinations based upon standards~~
18 ~~relevant to the duties to be performed, which standards shall be established by the~~
19 ~~Director of Corrections in conjunction with the Department of Administration.~~

20 (c) ~~No person shall be appointed as a Corrections Officer who has been convicted~~
21 ~~in any civilian or military court of a felony, a crime involving moral turpitude, a~~
22 ~~crime of domestic or family violence, or who has been administratively pardoned of~~
23 ~~any crime.~~

24 (d) ~~No person shall be appointed as a Corrections Officer before a thorough~~
25 ~~investigation of the applicant's background and moral character is completed.~~

26 (e) (b) A Corrections Officer dismissed for cause shall be permanently ineligible
27 for appointment reappointment, or reemployment to any position in the Department.

1 A Corrections Officer who resigns for the sole purpose of negating or averting a
2 pending or anticipated disciplinary action to dismiss the Corrections Officer *shall* be
3 ineligible for reappointment or reemployment.

4 ~~(f) No person shall be appointed as a Corrections Officer who has *not* established~~
5 ~~satisfactory evidence of the ability to understand and work with persons with~~
6 ~~disabilities, including special needs and mental illness. Evidence of such ability~~
7 ~~shall be by a certificate of completion of the appropriate training as approved by the~~
8 ~~Department of Integrated Services for Individuals with Disabilities, as a condition~~
9 ~~for selection prior to appointment as a Corrections Officer. For the purpose of this~~
10 ~~Section, the term disability(ies), as is defined in the *Americans with Disabilities Act*,~~
11 ~~shall mean a physical or mental impairment that substantially limits one (1) or more~~
12 ~~major life activities of an individual. Incumbent uniformed officers who *do not* have~~
13 ~~a certificate of completion of the training as required in this Act shall, within six (6)~~
14 ~~months following the enactment of this Act, submit to the Department of~~
15 ~~Administration such certification as required herein.~~

16 **§ 90.16.1. Annual Corrections Officer Recruits Training Cycle.**

17 (a) The Department of Corrections shall conduct a corrections officer recruits
18 training cycle for at least twenty (20) candidates per fiscal year, subject to the
19 availability of funds.

20 (b) ~~Each year, the Director of the Department of Corrections shall determine the~~
21 ~~total cost to conduct a recruitment and training cycle pursuant to the requirements~~
22 ~~set forth in Subsection (a) of this Section and he/she shall transmit this as part of the~~
23 ~~Department's proposed budget to *I Maga'hagan Guahan* for inclusion in the~~
24 ~~Executive Budget request that *I Maga'hagan Guahan* submits annually to *I*~~
25 ~~*Liheslaturan Guahan*.~~

26 (c) ~~The Director of the Department of Corrections shall submit a report to *I*~~
27 ~~*Maga'hagan Guahan* and the Speaker of *I Liheslaturan Guahan* no later than June~~

1 ~~30 of each year to present an update on the corrections officer recruits training cycle~~
2 ~~conducted during that fiscal year pursuant to the requirements set forth in this~~
3 ~~Section.~~

4 ~~**§ 90.20. Corrections Advisory Council Established.**~~

5 ~~There is hereby the established Corrections Advisory Council, composed of the~~
6 ~~Chairman of the Guam Parole Board, the Chief Judge of the Superior Court, the~~
7 ~~Administrator of Social Services (Director, Public Health and Social Services) or his~~
8 ~~designee, the Principal of the Vocational & Technical High School or his~~
9 ~~representative, the United States Attorney or his representative and, in addition, one~~
10 ~~(1) representative from the business community and one (1) member of the general~~
11 ~~public, who shall be appointed by the Governor with the advice and consent of the~~
12 ~~Legislature. The Director of the Department shall be ex officio secretary of the~~
13 ~~Council and the Department shall furnish necessary logistic support. The Council~~
14 ~~shall advice the Director and the Department as to the policies and procedures to~~
15 ~~carry out the intent and purposes of this Chapter.~~

16 ~~**§ 90.25. General Powers and Duties of Director to Establish Prisons.**~~

17 ~~(a) The Director shall establish and operate correctional institutions, and other~~
18 ~~places of confinement, for inmates and detainees for prisoners serving sentences of~~
19 ~~imprisonment imposed by the Courts of Guam and other authorized prisoners, and~~
20 ~~other persons placed in the custody of the Director, pursuant to the laws of Guam.~~

21 ~~(b) As head of the Department, the Director shall administer the Department,~~
22 ~~and:~~

23 ~~(1) Shall exercise and discharge the powers and duties of the Department~~
24 ~~through such divisions, or other organizational units as he may establish pursuant~~
25 ~~to this Chapter or as otherwise provided by law.~~

26 ~~(2) May establish such divisions or other organizational units as he may~~
27 ~~determine to be necessary for the efficient and effective administration and~~

1 operation of the Department. Each such division or organizational unit shall be
2 subject to the supervision and discretion of the Director and shall have
3 jurisdiction of such matters, exercise such powers and perform such duties as
4 may be assigned to it by the Director or otherwise by applicable laws.

5 (3) May delegate authority for the performance of any of his powers or duties
6 to any officer or employee under his direction and supervision.

7 (4) Shall, when the need arises to use correctional facilities to serve as
8 overflow lock-up, keep inmates and detainees separate and apart.

9 (c) The Director shall have the authority to promulgate, adopt, and amend rules
10 and regulations in accordance with the Administrative Adjudication Law (codified
11 at Chapter 9 of Title 5, Guam Code Annotated) necessary to implement this Chapter
12 and for the administration of the Department.

13 (d) The Director of the Department of Corrections must make reasonable efforts:

14 (1) to provide a breast pump and a sanitary room, other than a toilet stall, or
15 a private area where a nursing mother confined at the Department of Corrections
16 facilities can express her milk.

17 (2) A nursing mother confined at the Department of Corrections facilities
18 may be allowed to breastfeed her child in a sanitary room, other than a toilet
19 stall, or a private area as long as safeguards are in place, as determined by the
20 Director, to prevent her escape and as long as it is not a threat to the infant's and
21 the public's safety and welfare.

22 **§ 90.26. Correctional Medical Clinics.**

23 There are hereby established facilities within the Department of Corrections
24 (DOC) designated as the "Correctional Medical and Dental Clinic" and the
25 "Correctional Behavioral Health Clinic" to address and respond to the medical,
26 dental and mental health needs of all inmates and detainees within the prison
27 population based on standards and procedures recognized by the National

1 Commission on Correctional Health Care and consistent with community standards
2 of care to further ensure the constitutional rights of inmates and detainees to proper
3 health care.

4 (a) All outpatient medical and dental clinical operations at the DOC
5 Correctional Medical Clinic shall be under the general cognizance and authority
6 of the Guam Memorial Hospital Authority (GMHA) to ensure delivery of
7 services including, but not limited to providing a medical director; physician and
8 nurse practitioner services; nursing services; clinic staff; pharmaceutical
9 services; medical records services; medical supplies; and training, to the extent
10 necessary to satisfy this section those services set forth in a cooperative
11 agreement between GMHA and DOC.

12 (b) All outpatient mental health services operations at the DOC Correctional
13 Behavioral Health Clinic shall be under the general cognizance and authority of
14 Guam Behavioral Health & Wellness Center (GBHWC) to ensure delivery of
15 services including, but not limited to providing a mental health director,
16 psychiatric physician and clinical psychology services, nursing services; clinic
17 staff; records services; supplies; and training, to the extent necessary to satisfy
18 this section those services set forth in a cooperative agreement between GBHWC
19 and DOC.

20 (c) The DOC, GMHA, and GBHWC shall annually submit sufficient
21 budgetary justification and appropriation requests to fund all operations pursuant
22 to the continuing cooperative agreements between the DOC and GMHA.

23 (d) DOC and GBHWC. GMHA and GBHWC shall deliver health care
24 services at the Correctional Medical Clinic and Correctional Behavioral Health
25 Clinic, respectively, at the most economical costs, implement best practices, and
26 promote financial accountability to DOC.

1 (1) GMHA and GBHWC shall provide written reports to DOC one
2 month after each fiscal quarter detailing services rendered and supplies used
3 during the previous quarter, including applicable costs and administrative
4 fees. The system for payment by DOC to GMHA and GBHWC shall be
5 established with the Governor’s Office, the Bureau of Budget Management
6 & Research (BBMR), and the Department of Administration (DOA) to
7 ensure GMHA and GBHWC has a regular commitment of funding secured
8 solely and exclusively for paying GMHA and GBHWC on time for health
9 care services, medical supplies, and for the timely payment to
10 pharmaceutical vendors to prevent any future risks of credit hold.

11 (2) Allotments shall be made to GMHA and GBHWC in advance of
12 services rendered and medical and pharmaceutical supplies, based on the
13 previous fiscal year budget, and adjusted for any under-utilization or over-
14 utilization from the previous fiscal year. Quarterly allotments shall be
15 released on October 1, January 1, April 1, and July 1, of each fiscal year.

16 (3) GMHA and GBHWC shall submit to DOC expenditures statements
17 post fiscal year that certify funds were spent in accordance with actual
18 allocations.

19 **~~§ 90.27. Prison May Serve as Overflow Lock-Up.~~**

20 ~~In the event that a court of competent jurisdiction finds that a facility used to~~
21 ~~detain persons charged with a crime is inadequate, the court may direct the Director~~
22 ~~to hold such persons in his custody. Such person shall be detained in an area separate~~
23 ~~and apart from those persons who have been convicted of a crime and are serving~~
24 ~~sentences of imprisonment.~~

25 **~~§ 90.30. Rules, Regulations & Disciplinary Rules Authorized.~~**

26 ~~The Director subject to the approval of the Governor by Executive Order, is~~
27 ~~authorized to make rules and regulations for the administration of correctional~~

1 institutions and other places of confinement, including, but not limited to, necessary
2 disciplinary measures for inmates thereof and for their treatment, care, labor,
3 rehabilitation and reformation.

4 **~~§ 90.35. Director to Control Organization of DOC; Appoint Staff.~~**

5 (a) ~~The Director may establish such divisions or other organizational units as he~~
6 ~~may determine to be necessary for the efficient and effective administration and~~
7 ~~operation of the Department. Each such division or organizational unit shall be~~
8 ~~subject to the supervision and discretion of the Director and shall have jurisdiction~~
9 ~~of such matters, exercise such powers and perform such duties as may be assigned~~
10 ~~to it by the Director or otherwise by applicable laws.~~

11 (b) ~~The Director may appoint and rename officers and other employees within~~
12 ~~the Department in accordance with the provisions of Title 4 of the Guam Code~~
13 ~~Annotated.~~

14 (c) ~~The Director may delegate authority for the performance of any of his powers~~
15 ~~or duties to any officer or employee under his direction and supervision.~~

16 **~~§ 90.40. General Duties of Director of Corrections.~~**

17 ~~As head of the Department, the Director:~~

18 (a) ~~Shall administer the Department.~~

19 (b) ~~Shall exercise and discharge the powers and duties of the Department~~
20 ~~through such divisions, or other organizational units as he may establish pursuant~~
21 ~~to this Chapter or as otherwise provided by law.~~

22 (c) ~~May formulate and adopt rules necessary or proper for the internal~~
23 ~~administration of the Department, subject to the approval of the Governor.~~

24 **~~§ 90.41. Inmate Commissary.~~**

25 ~~Notwithstanding any other provision of law, the The Department of Corrections~~
26 ~~(DOC) is authorized to operate or outsource the operation of an inmate a commissary~~
27 ~~within the confines of DOC. This Section shall exempt DOC from the provisions of~~

1 21 GCA § 60112 in order to provide DOC the authority to lease property to an
2 approved vendor to operate the commissary facility without first seeking legislative
3 approval.

4 **§ 90.42. Operation of ~~Inmate~~ Commissary.**

5 (a) The Director ~~of DOC~~ may operate, or contract with another person or entity
6 to operate, a commissary for the use of the inmates and detainees confined at DOC.

7 (b) The Director may enter into a contract for the lease of space to accommodate
8 the commissary. ~~In accordance with 5 GCA Chapter 5 (Guam Procurement Law),~~
9 ~~the Department of Corrections is authorized to enter into a contract for the lease of~~
10 ~~up to three hundred (300) square feet of its property for an inmate commissary.~~
11 ~~Procurement of said contract shall be done by a DOC staff member who is qualified~~
12 ~~under 5 GCA § 5141.~~

13 (c) ~~Funds directed as a result of revenue received from the contract under~~
14 ~~Subsection (b) of this Section shall be subject to an annual audit by the Office of~~
15 ~~Public Accountability.~~

16 (d) ~~When entering into a contract under Subsection (a) of this Section, the~~
17 ~~Director or the Director's designee shall consider the following:~~

18 (1) ~~whether the contract should provide for a fixed rate of return combined~~
19 ~~with a sales growth incentive;~~

20 (2) ~~the menu items offered by the provider and the price of those items;~~

21 (3) ~~the value, as measured by a best value standard, and benefits to inmates~~
22 ~~and the commissary, as offered by the provider;~~

23 (4) ~~safety and security procedures to be performed by the provider; and~~

24 (5) ~~the performance record of the provider, including service availability,~~
25 ~~reliability, and efficiency.~~

1 ~~(e) The Department of Corrections shall establish policy and procedures for the~~
2 ~~administration of this Section. Such policy and procedures shall be transmitted to I~~
3 ~~Liheslaturan Guåhan prior to operation of the inmate commissary.~~

4 ~~(f) The Department of Corrections shall establish rules and regulations for the~~
5 ~~administration of this Section prior to operation of the inmate commissary.~~

6 ~~§ 90.43. — Corrections Commissary Fund.~~

7 ~~(c) Corrections Commissary Fund. There is hereby established a Fund to be~~
8 ~~known as the Corrections Commissary Fund (CCF), which shall be maintained~~
9 ~~separate and apart from other funds of the government of Guam. All funds collected~~
10 ~~by the government of Guam from the operations of a commissary shall be deposited~~
11 ~~in the CCF; and, interest and investment earnings shall be credited to the assets of~~
12 ~~the CCF and shall become part of the CCF. — Any remaining balance in the CCF at~~
13 ~~the end of the fiscal year shall be carried over to the next fiscal year.~~

14 ~~(d) Inmate Improvement. The Director may use up to fifty percent (50%) of the~~
15 ~~net proceeds of the CCF for inmate and detainee improvement. to develop or~~
16 ~~enhance inmate welfare; and the other fifty percent (50%) shall be used for~~
17 ~~rehabilitation programs within the Department of Corrections.~~

18 ~~§ 90.44. Inmate Phone Access Act of 2021.~~

19 ~~(a) There is hereby created, within the Department of Corrections, a revolving~~
20 ~~fund called the “Inmate Phone Access Fund” (Fund), which shall be established by~~
21 ~~the Department of Administration in accordance with the following provisions:~~

22 ~~(1) Notwithstanding any other provision of law, any revenue that is collected~~
23 ~~by the Government of Guam for telephone services within the Guam Department~~
24 ~~of Corrections shall be deposited into said Fund.~~

25 ~~(2) Any revenue that is deposited into said Fund is to be used to provide no-~~
26 ~~cost telephonic services for indigent inmates or indigent detainees to contact~~
27 ~~their legal counsel.~~

1 (3) Should revenues deposited into this Fund not be adequate to provide no-
2 cost telephonic services for indigent inmates to contact their legal counsel, the
3 Director of the Department of Corrections and I Maga'hågan Guåhan shall
4 ensure that any indigent inmate or indigent detainee be provided with their
5 constitutional right to consult legal counsel through no-cost telephonic service
6 by any means that the Director or I Maga'hågan Guåhan sees fit.

7 (4) For the purposes of this Section, "indigent inmates" or "indigent
8 detainees" shall mean those persons charged in a criminal case before the courts
9 of Guam who are determined indigent consistent with 12 GCA § 11104.

10 ~~(b) Notwithstanding any other provision of law, within thirty (30) days of the~~
11 ~~enactment of this Section, the Director of the Department of Corrections shall create~~
12 ~~and implement a policy where indigent inmates shall be allowed to call the Public~~
13 ~~Defender Service Corporation, the Alternate Public Defender, or their Attorney of~~
14 ~~Record, at no cost to the indigent inmate. The Director of the Department of~~
15 ~~Corrections shall submit a report to *I Liheslatura* upon the creation and~~
16 ~~implementation of said policy.~~

17 **§ 90.45. Authorization to Transfer Prisoners Inmates to Federal Correctional**
18 **Institutions.**

19 The Director is authorized to enter into one or more contracts with the Attorney
20 General of the United States pursuant to the authority granted to the Attorney
21 General of the United States by Title 18, United States Code, § 5003, for the custody,
22 care, subsistence, education, treatment and training in one or more Federal
23 correctional institutions, of persons convicted of criminal offenses in the courts of
24 Guam; provided, that any such contract shall provide for the reimbursement of the
25 United States in full for all costs or other expenses incurred by the United States for
26 such custody, care, subsistence, education, treatment and training; and provided
27 further, that the Director shall comply with the relevant provisions of §§ 90.46

1 through 90.48 inclusive of this Code prior to the physical transfer of any such person
2 to a Federal correctional institution.

3 **§ 90.46. Emergency Transfers of Inmates.**

4 (a) Existence of correctional emergency. The Director may declare a correctional
5 emergency under the following circumstances:

6 (1) When the Director determines the existence of conditions which have
7 affected, or in the immediate future will affect, the physical integrity of any
8 correctional institution over which he has jurisdiction or the health or safety of
9 the inmates thereof; and

10 (2) The effect of such conditions will, in the Director's opinion, be to render
11 such institution unable to provide secure custody and proper care for the inmates
12 thereof. The term 'conditions' as used hereinabove includes, although it is not
13 limited to fire, earthquake, explosion, typhoon, flood, other acts of God and
14 calamitous events and diseases, but it shall not include riot, insurrection or any
15 other disturbance created by the inmates of such institution.

16 (b) Procedure for Declaration. Whenever the Director determines the existence
17 of a correctional emergency as defined hereinabove, he shall make and execute a
18 short, plain written statement setting forth the nature of such emergency and the basis
19 for his opinion that such emergency will render such institution unable to provide
20 secure custody and proper care for the inmates thereof. Such statement shall be filed
21 in the permanent records of the Department as soon after its execution as is
22 practicable. Copies of such statement shall be delivered to the Parole Board and to
23 the Office of the Attorney General within five (5) calendar days after its execution
24 by the Director.

25 (c) Transfer of Inmates. Following the declaration of a correctional emergency
26 as provided for hereinabove, the Director may, without further delay, enter into one
27 or more contracts such as those contemplated by §§ 90.45 of this Code or by Article

1 III of the Western Interstate Corrections Compact (§ 90.52 of this Code), and he may
2 thereafter transfer an inmate or inmates of the correctional institution for which such
3 correctional emergency was declared to another correctional institution without any
4 further administrative proceedings; provided, however, that any transfer of an inmate
5 or inmates under conditions of correctional emergency shall be to a correctional
6 institution within Guam, if such then exists and then has the capability of providing
7 secure custody and proper care to such inmate or inmates, and that no inmate shall
8 be transferred to a correctional institution outside of Guam under conditions of
9 correctional emergency unless no correctional institution then existing within Guam
10 then has the capability of providing secure custody and proper care to such inmate.

11 (d) Termination of Correctional Emergency. Whenever the Director determines
12 that the conditions which necessitated the declaration of a correctional emergency
13 no longer have the effect of rendering the correctional institution unable to provide
14 secure custody and proper care for the inmates thereof, the Director shall declare the
15 termination of such correctional emergency. Such declaration shall be in writing and
16 executed by the Director and shall be filed and delivered as set forth in Subsection
17 (b) of this Section. Such termination shall be effective immediately upon its
18 execution.

19 (e) Return of Inmates. Upon the termination of a correctional emergency, all
20 inmates who were transferred under the provisions of Subsection (c) of this Section
21 shall immediately be returned to the correctional institution from which they were
22 transferred, at the Department's expense.

23 **§ 90.47. ~~Inmate Transfer:~~ Non-Emergency Transfers of Inmates.**

24 The Director of Corrections is authorized to transfer an inmate to a correctional
25 institution outside of Guam in non-emergency circumstances.

26 **§ 90.47.01. ~~Same:~~ Disciplinary Transfers of Inmates.**

1 The Director may recommend the transfer of an inmate to an institution outside
2 of Guam for disciplinary reasons in the following circumstances:

3 (a) when an inmate is alleged by an officer, employee or other inmate to have
4 committed a violation of such institution's rules or regulations, which violation
5 might constitute a threat to the order or discipline of the institution or to the
6 ~~physical~~ safety of an officer, employee or any inmate; or harm to the public; or

7 (b) when an inmate is subsequently convicted of a violation of § 58.20 or §
8 58.30 of this Code, ~~or of any violent crime.~~

9 **§ 90.47.02. ~~Same:~~ Non-disciplinary Transfers of Inmates.**

10 The Director may recommend the transfer of an inmate to an institution outside
11 of Guam for non-disciplinary circumstances under either of the following
12 circumstances:

13 (a) whenever the Director determines that, due to the physical or mental
14 condition of an inmate, the present incarceration lacks adequate facilities for
15 custody, care, subsistence, education, treatment or training of the inmate, and
16 that of the inmate would be better served by transfer to an institution outside of
17 Guam; or

18 (b) whenever the Director determines that due to overcrowding which
19 impacts on the adequacy of the facility to provide for the safe custody, care,
20 subsistence, education, treatment and training of an inmate the interest of the
21 inmate is better served by such transfer to an institution outside Guam.

22 **§ 90.47.03. ~~Same:~~ Procedures for Transfers of Inmates.**

23 Whenever the Director ~~of the Department of Corrections~~ determines that an
24 inmate be recommended for transfer to a correctional institute outside of Guam, the
25 Director shall ~~convene a Transfer Review Committee to~~ review the basis for such
26 recommended transfer. The Director shall ~~promulgate~~ provide through Executive

1 ~~Order rules and regulations for the establishment of a Transfer Review Committee~~
2 ~~to include:~~

3 ~~(a) a minimum of five (5) members to include a DOC case worker, the~~
4 ~~Attorney General or representative, a correctional officer, an inmate, a member~~
5 ~~of the clergy;~~

6 ~~(b) provisions for due notice on a recommended transfer, which shall include~~
7 ~~timely notice to the inmate and the Attorney General; and~~

8 ~~(c) provisions for hearing, final decision and appeal from a final decision of~~
9 ~~transfer; .~~

10 ~~(d) provisions for maintaining~~ The Director shall maintain a record of each
11 hearing.

12 **~~§ 90.47.04. Same: Basis of Determination.~~**

13 ~~(a) The Transfer Review Committee shall base its determination for transfer~~
14 ~~upon substantial evidence as presented on the record at hearing, and shall be final.~~
15 ~~No inmate shall be recommended for transfer while any conviction for which he was~~
16 ~~incarcerated is on appeal. Any statement made by an inmate during the course of a~~
17 ~~transfer hearing shall not be admitted in evidence against the inmate in any~~
18 ~~subsequent criminal action, except for the purpose of impeachment or in a trial for~~
19 ~~perjury, false swearing or contempt.~~

20 ~~(b) The Administrative Adjudication Law and the Open Government Law shall~~
21 ~~not apply to any proceeding or action taken under this Section, nor shall any inmate~~
22 ~~be represented by counsel in any proceeding held pursuant to this Section.~~

23 **~~§ 90.47.05. Same: Appeal from Determination.~~**

24 ~~Any inmate whom the Transfer Review Committee has determined is to be~~
25 ~~transferred under these provisions may appeal such determination to the Superior~~
26 ~~Court of Guam. The review of the Superior Court shall not be de novo, and shall be~~
27 ~~limited to a review of the record to determine whether the Transfer Review~~

1 ~~Committee made its determination based upon a fair and full hearing. A~~
2 ~~determination may be reversed only upon a showing that the Committee abused its~~
3 ~~discretion in applying the rules and regulations to the facts which provided the basis~~
4 ~~for the recommended transfer, and that to allow the decision to stand would result in~~
5 ~~a miscarriage of justice. Notice of filing an appeal in accordance with this Subsection~~
6 ~~does not automatically stay an inmates transfer pending appeal.~~

7 **~~§ 90.48. Nursing Mothers Accommodations.~~**

8 ~~(a) The Director of the Department of Corrections must make reasonable efforts~~
9 ~~to provide a breast pump and a sanitary room, other than a toilet stall, or a private~~
10 ~~area where a nursing mother confined at the Department of Corrections facilities can~~
11 ~~express her milk.~~

12 ~~(b) A nursing mother confined at the Department of Corrections facilities may~~
13 ~~be allowed to breastfeed her child in a sanitary room, other than a toilet stall, or a~~
14 ~~private area as long as safeguards are in place, as determined by the Director, to~~
15 ~~prevent her escape and as long as it is *not* a threat to the infant's and the public's~~
16 ~~safety and welfare.~~

17 **§ 90.48. Transfers Pursuant to Treaty.**

18 When a treaty is in effect between the United States and a foreign country that
19 provides for the transfer of convicted offenders who are citizens or nationals of the
20 foreign country, upon the recommendation of the Attorney General of Guam, I
21 Maga'lahaen Guåhan (the Governor of Guam) or the Director of the Department of
22 Corrections, if designated by I Maga'lahi (the Governor), on behalf of the island and
23 subject to the terms of the treaty; may consent to the transfer of the convicted
24 offenders who are under the jurisdiction of the Department of Corrections to the
25 place or jurisdiction specified in the treaty. I Maga'lahaen Guåhan (the Governor)
26 may take any other action necessary to initiate the participation of this territory in
27 the treaty.

1 **§ 90.49. Corrections Revolving Fund.**

2 There is hereby created, within the Department of Corrections, a revolving fund
3 called the 'Corrections Revolving Fund', which shall be established by the
4 Department of Administration in accordance with the following provisions:

5 (a) All funds collected from the U.S. Marshal Service, the U.S. Immigration
6 Service and the U.S. Bureau of Prisons for housing U.S. ~~prisoners~~ inmates and
7 detainees, confinement of military personnel as agreed to in a Memorandum of
8 Agreement between the United States Air Force and the Department of
9 Corrections dated March 5, 2003, employees of the Department of Corrections
10 for meals they purchase at the Department's dining facility, and the sale of hot
11 garbage (pig slop) to private persons, shall be deposited into said Fund.

12 (1) Funds in the Corrections Revolving Fund may be used to purchase
13 clothing for ~~prisoners~~ inmates and detainees, foodstuffs for the dining
14 facility, galley catering services and, equipment, medical/dental supplies,
15 reading glasses, prescription and over-the-counter medicines, sanitary/
16 hygiene supplies, and other pharmaceutical supplies for ~~prisoners~~ inmates
17 and detainees, including payment for ~~prisoners~~ inmates and detainee
18 maintenance costs in any off-island prison or medical institutions, payment
19 for overtime and related personnel costs and for ~~DepCor~~ Department of
20 Correction Reservists.

21 (2) Expenditures from the Fund shall be approved by the Director of
22 ~~Corrections~~ and posted on the Department's website.

23 (3) A complete and accurate accounting of all money deposited into and
24 withdrawn from such Fund shall be maintained by the Director of
25 Administration.

26 (4) Such accounting shall include and clearly identify the sources and
27 amounts of all funds paid into or withdrawn from said Fund.

1 (b) The Corrections Revolving Fund shall be maintained separate and apart
2 from all other funds of the government of Guam.

3 ~~(c) No expenditures and encumbrances from the Corrections Revolving Fund~~
4 ~~shall be made without legislative approval through appropriation.~~

5 **ARTICLE 2**

6 **WESTERN INTERSTATE CORRECTIONS COMPACT**

7 **§ 90.50. Purpose of Article.**

8 The purpose of this Article is to enact enabling legislation for the enactment of
9 the Western Interstate Corrections Compact, hereinafter referred to as the Compact.
10 This Article may be cited as the Western Interstate Corrections Compact Enabling
11 Act.

12 **§ 90.51. Compliance to §§ 90.46-90.48.**

13 No person shall be transferred to a correctional institution outside of Guam
14 unless the applicable provisions of §§ 90.46 [Emergency Transfers of Inmates], or
15 90.47 [Non-emergency Transfers of Inmates], or 90.48 of this ~~Code~~ Chapter have
16 first been complied with or unless such person has been legally sentenced to a term
17 of imprisonment in such a correctional institution.

18 **§ 90.52. Compact Stated.**

19 The Compact as contained herein is hereby enacted into law and entered into on
20 behalf of Guam with any and all states legally joining therein in a form substantially
21 as follows:

22 **Western Interstate Corrections Compact**

23 **Article I**

24 **Purpose and Policy**

25 The party states, desiring by common action to improve their institutional
26 facilities and provide programs of sufficiently, high quality for the confinement,
27 treatment and rehabilitation of various types of offenders, declare that it is the policy

1 of each of the party states to provide such facilities and programs on a basis of
2 cooperation with one another, thereby serving the best interests of such offenders
3 and of society. The purpose of this Compact is to provide for the development and
4 execution of such programs of cooperation for the confinement, treatment and
5 rehabilitation of offenders.

6 Article II

7 Definitions

8 As used in this Compact, unless the context clearly requires otherwise:

9 (a) *State* means a state of the United States, or, subject to the limitation
10 contained in Article VII, Guam.

11 (b) *Sending State* means a state party to this Compact in which conviction
12 was had.

13 (c) *Receiving State* means a state party to this Compact to which an inmate
14 is sent for confinement other than a state in which conviction was had.

15 (d) *Inmate* means a male or female offender who is under sentence to, or
16 confined in, a prison or other correctional institution.

17 (e) *Institution* means any prison, reformatory or other correctional facility
18 (including but not limited to a facility for the mentally ill or mentally defective)
19 in which inmates may lawfully be confined.

20 Article III

21 Contracts

22 (a) Each party state may make one or more contracts with any one or more of
23 the other party states for the confinement of inmates on behalf of a sending state in
24 institutions situated within receiving states. Any such contract shall provide for:

25 (1) Its duration.

26 (2) Payments to be made to the receiving state by the sending state for inmate
27 maintenance, extraordinary medical and dental expenses, and any participation

1 in or receipt by inmates of rehabilitative or correctional services, facilities,
2 programs or treatment not reasonably included as part of normal maintenance.

3 (3) Participation in programs of inmate employment, if any; the disposition
4 or crediting of any payments received by inmates on account thereof; and the
5 crediting of proceeds from or disposal of any products resulting therefrom.

6 (4) Delivery and retaking of inmates.

7 (5) Such other matters as may be necessary and appropriate to fix the
8 obligations, responsibilities and rights of the sending and receiving states.

9 (b) Prior to the construction or completion of construction of any institution or
10 addition thereto by a party state, any other party state or states may contract herewith
11 for the enlargement of the planned capacity of the institution or addition thereto, or
12 for the inclusion therein of particular equipment or structures, and for the reservation
13 of a specific percentum of the capacity of the institution to be kept available for use
14 by inmates of the sending state or states so contracting. Any sending state so
15 contracting may, to the extent that moneys are legally available therefor, pay to the
16 receiving state a reasonable sum as consideration for such enlargement of capacity,
17 or provision, of equipment or structures, and reservation of capacity. Such payment
18 may be in a lump sum or installments as provided in the contract.

19 (c) The terms and provisions of this Compact shall be a part of any contract
20 entered into by the authority of, or pursuant thereto, and nothing in any such contract
21 shall be inconsistent therewith.

22 Article IV

23 Procedures and Rights

24 (a) Whenever the duly constituted judicial or administrative authorities in a state
25 party to this Compact, and which has entered into a contract pursuant to Article III,
26 shall decide that confinement in, or transfer of an inmate to, an institution within the
27 Territory of another party state is necessary in order to provide adequate quarters

1 and care or desirable in order to provide an appropriate program of rehabilitation or
2 treatment, said officials may direct that the confinement be within an institution
3 within the Territory of said other party state, the receiving state to act in that regard
4 solely as agent for the sending state.

5 (b) The appropriate officials of any state party to this Compact shall have access,
6 at all reasonable times, to any institution in which it has a contractual right to confine
7 inmates for the purpose of inspecting the facilities thereof and visiting such of its
8 inmates as may be confined in the institution.

9 (c) Inmates confined in an institution pursuant to the terms of this Compact shall
10 at all times be subject to the jurisdiction of the sending state and may at any time be
11 removed therefrom for transfer to a prison or other institution within the sending
12 state may have a contractual or other right to confine inmates, for release on
13 probation or parole, for discharge, or for any other purpose permitted by the laws of
14 the sending state; provided that the sending state shall continue to be obligated to
15 such payments as may be required pursuant to the terms of any contract entered into
16 under the terms of Article III.

17 (d) Each receiving state shall provide regular reports to each sending state on the
18 inmates of the sending state in institutions pursuant to this Compact including a
19 conduct record of each inmate and certify said record to the official designated by
20 the sending state, in order that each inmate may have the benefit of his or her record
21 in determining and altering the disposition of said inmate in accordance with the law
22 which may obtain in the sending state and in order that the same may be a source of
23 information for the sending state.

24 (e) All inmates who may be confined in an institution pursuant to the provisions
25 of this Compact shall be treated in a reasonable and humane manner and shall be
26 cared for and treated equally with such similar inmates of the receiving state as may
27 be confined in the same institution. The fact of confinement in a receiving state shall

1 not deprive any inmate so confined of any legal rights which said inmate would have
2 had if confined in an appropriate institution of the sending state.

3 (f) Any hearing or hearings to which an inmate confined pursuant to this
4 Compact may be entitled by the laws of the sending state may be had before the
5 appropriate authorities of the sending state, or of the receiving state if authorized by
6 the sending state. The receiving state shall provide adequate facilities for such
7 hearings as may be conducted by the appropriate officials of a sending state. In the
8 event such hearing or hearings as prescribed by the sending state shall be made. Said
9 record together with any recommendations of the hearing officials shall be
10 transmitted forthwith to the official or officials before whom the hearing would have
11 been had if it had taken place in the sending state. In any all proceedings had pursuant
12 to the provisions of this Subdivision, the officials of the receiving state shall act
13 solely as agents of the sending state and no final determination shall be made in any
14 matter except by the appropriate officials of the sending state. Costs of records made
15 pursuant to this Subdivision shall be borne by the sending state.

16 (g) An inmate confined pursuant to this Compact shall be released within the
17 Territory of the sending state unless the inmate, and the sending and receiving states,
18 shall agree upon release in some other place. The sending state shall bear the cost of
19 such return to its Territory.

20 (h) Any inmate confined pursuant to the terms of this Compact shall have any
21 and all rights to participate in and derive any benefits or incur or be relieved of any
22 obligations or have such obligations modified or his status changed on account of
23 any action or proceeding in which he could have participated if confined in any
24 appropriate institution of the sending state located within such state.

25 (i) The parent, guardian, trustee, or other person or persons entitled under the
26 laws of the sending state to act for, advise, or otherwise function with respect to any

1 inmate shall not be deprived of or restricted in his exercise of any power in respect
2 of any inmate confined pursuant to the terms of this Compact.

3 Article V

4 Acts Not Reviewable in Receiving State; Extradition

5 (a) Any decision of the sending state in respect of any matter over which it retains
6 jurisdiction pursuant to this Compact shall be conclusive upon and not reviewable
7 within the receiving state, but if at the time the sending state seeks to remove an
8 inmate from an institution in the receiving state there is pending against the inmate
9 within such state any criminal charge or if the inmate is suspected of having
10 committed within such state a criminal offense, the inmate shall not be returned
11 without the consent of the receiving state until discharged from prosecution or other
12 form of proceeding, imprisonment or detention for such offense. The duly accredited
13 officers of the sending state shall be permitted to transport inmates pursuant to this
14 Compact through any and all states party to this Compact without interference.

15 (b) An inmate who escapes from an institution in which he is confined pursuant
16 to this Compact shall be deemed a fugitive from the sending state and from the state
17 in which the institution is situated. In the case of an escape to a jurisdiction other
18 than the sending or receiving state, the responsibility for institution of extradition
19 proceedings shall be that of the sending state, but nothing contained herein shall be
20 construed to prevent or affect the activities of officers and agencies of any
21 jurisdiction directed toward the apprehension and return of an escape.

22 Article VI

23 Federal Aid

24 Any state party to this Compact may accept Federal aid for use in connection
25 with any institution or program, the use of which is or may be affected by this
26 Compact or any contract pursuant hereto and any inmate in a receiving state pursuant
27 to this Compact may participate in any such Federally aided program or activity for

1 which the sending and receiving states have made contractual provision provided
2 that if such program or activity is not part of the customary correctional regimen the
3 express consent of the appropriate official of the sending state shall be required
4 therefor.

5 Article VII

6 Entry Into Force

7 This Compact shall enter into force and become effective and binding upon the
8 states so acting when it has been enacted into law by any two contiguous states from
9 among the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana,
10 Nebraska, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. For the
11 purposes of this Article, Alaska and Hawaii shall be deemed contiguous to each
12 other; to any and all of the states of California, Oregon and Washington, and to
13 Guam. Thereafter, this Compact shall enter into force and become effective and
14 binding as to any other of said states, or any other state contiguous to at least one
15 party state upon similar action by such state. Guam may become party to this
16 Compact by taking action similar to that provided for joinder by any other eligible
17 party state and upon the consent of Congress to such joinder. For the purposes of
18 this Article, Guam shall be deemed contiguous to Alaska, Hawaii, California,
19 Oregon and Washington.

20 Article VIII

21 Withdrawal and Termination

22 This Compact shall continue in force and remain binding upon a party state until
23 it shall have enacted a statute repealing the same and providing for the sending of
24 formal written notice of withdrawal from the Compact to the appropriate officials of
25 all other party states. An actual withdrawal shall not take effect until two years after
26 the notices provided in said statute have been sent. Such withdrawal shall not relieve
27 the withdrawing state from its obligations assumed hereunder prior to the effective

1 date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall
2 remove to its Territory, at its own expense, such inmates as it may have confined
3 pursuant to the provisions of this Compact.

4 Article IX

5 Other Arrangements Unaffected

6 Nothing contained in this Compact shall be construed to abrogate or impair any
7 agreement or other arrangement which a party state may have with a non-party state
8 of the confinement, rehabilitation or treatment of inmates nor to repeal any other
9 laws of a party state authorizing the making of cooperative institutional
10 arrangements.

11 Article X

12 Construction and Severability

13 The preceding shall be liberally construed and shall be severable. If any phrase,
14 clause, sentence or provision of this Compact is declared to be contrary to the
15 constitution of any participating state or of the United States or the applicability
16 thereof to any government, agency, person or circumstance is held invalid, the
17 validity of the remainder of this Compact and the applicability thereof to any
18 government, agency, person or circumstance shall not be affected thereby. If this
19 Compact shall be held contrary to the constitution of any state participating therein,
20 the Compact shall remain in full force and effect as to the remaining states and in
21 full force and effect as to the state affected as to all severable matters.

22 **§ 90.54. Director, Department of Corrections May Commit ~~Prisoner~~ Inmate** 23 **Outside of Guam Pursuant to Terms of Compact.**

24 The Director of Corrections may commit or transfer any inmate of a penal
25 institution under his responsibility to any institution without Guam if Guam has
26 entered into a contract or contracts for the confinement of inmates in such institution
27 pursuant to Article III of the Compact.

1 **§ 90.56. All Agencies of Government of Guam Shall Enforce Compact.**

2 The courts, departments, agencies and officers of Guam shall enforce this
3 Compact and shall do all things appropriate to the effectuation of its purposes and
4 intent which may be within their respective jurisdictions including but not limited to
5 the making and submission of such reports as are required by the Compact.

6 **§ 90.58. Director, Department of Corrections May Hold Hearings as Required**
7 **by Compact.**

8 The Director of Corrections is hereby authorized and directed to hold such
9 hearings as may be requested by any party state pursuant to Article IV(f) of the
10 Compact.

11 **§ 90.60. Governor May Contract to Implement Compact.**

12 The Governor is hereby empowered to enter into such contracts as may be
13 appropriate to implement the participation of the territory of Guam in the Compact
14 pursuant to Article III thereof.

15 **§ 90.62. Guam to Provide Transportation to Guam Resident Ending Sentence**
16 **Out-of-Guam.**

17 Where the inmate of an institution within Guam is committed or transferred to
18 any institution outside Guam pursuant to § 90.54, and if such inmate is discharged
19 in the receiving state by agreement pursuant to Article IV(g) of the Compact, where
20 such inmate is a permanent resident of Guam the return transportation of such inmate
21 to Guam shall be furnished by Guam.

22 **§ 90.64. Severability.**

23 The provisions of this Article shall be severable and if any phrase, clause,
24 sentence, or provision of the Article is declared to be invalid or the applicability
25 thereof to any state, agency, person or circumstances is held invalid, the validity of
26 this Article and the applicability thereof to any other state, agency, person or
27 circumstance shall with respect to all severable matters, not be affected thereby. It is

1 the legislative intent that the provisions of this Article be reasonably and liberally
2 construed.

3 **§ 90.66. Effective Date.**

4 This Article shall become effective upon the enactment of consent legislation by
5 the United States Congress in accordance with Article VII of the Compact.

6 **ARTICLE 3**

7 **INTERSTATE COMPACT ON JUVENILES**

8 ~~**§ 90.80. Purpose of Article: Title.**~~

9 ~~The purpose of this Article is to enact enabling legislation for the Interstate~~
10 ~~Compact on Juveniles, hereinafter referred to as the Compact. This Article may be~~
11 ~~cited as the Interstate Compact on Juveniles Enabling Act.~~

12 ~~**§ 90.82. Governor to Execute Compact: Compact Stated.**~~

13 ~~The Governor of Guam is hereby authorized to execute and enter into a Compact~~
14 ~~on behalf of t Guam with any and all states, territories, Trust Territories and~~
15 ~~possessions of the United States, the District of Columbia, and the Commonwealth~~
16 ~~of Puerto Rico legally joined therein in a form substantially as follows:~~

17 **Article I**

18 **Finding and Purposes**

19 ~~That juveniles who are not under proper supervision and control, or who have~~
20 ~~absconded, escaped or run away, are likely to endanger their own health, morals and~~
21 ~~welfare of others. The cooperation of the states party to this Compact is therefore~~
22 ~~necessary to provide for the welfare and protection of juveniles and of the public~~
23 ~~with respect to (1) cooperative supervision of delinquent juveniles on probation or~~
24 ~~parole; (2) the return, from one state to another, of delinquent juveniles who have~~
25 ~~escaped or absconded; (3) the return, from one state to another, of non-delinquent~~
26 ~~juveniles who have run away from home; and (4) additional measures for the~~
27 ~~protection of juveniles and of the public, which any two or more of the party states~~

1 ~~may find desirable to undertake cooperatively. In carrying out the provisions of this~~
2 ~~Compact the party states shall be guided by the noncriminal, reformatory and~~
3 ~~protective policies which guide their laws concerning delinquent, neglected or~~
4 ~~dependent juveniles generally. It shall be the policy of the states party to this~~
5 ~~Compact to cooperate and observe their respective responsibilities for the prompt~~
6 ~~return and acceptance of juveniles and delinquent juveniles who become subject to~~
7 ~~the provisions of this Compact. The provisions of this Compact shall be reasonably~~
8 ~~and liberally construed to accomplish the foregoing purposes.~~

9 ~~Article II~~

10 ~~Existing Rights and Remedies~~

11 ~~That all remedies and procedures provided by this Compact shall be in addition~~
12 ~~to and not in substitution for other rights, remedies and procedures, and shall not be~~
13 ~~in derogation of parental rights and responsibilities.~~

14 ~~Article III~~

15 ~~Definitions~~

16 ~~That, for the purposes of this Compact:~~

17 ~~(a) *delinquent juvenile* means any juvenile who has been adjudged~~
18 ~~delinquent and who, at the time the provisions of this Compact are invoked, is~~
19 ~~still subject to the jurisdiction of the court that has made such adjudication or to~~
20 ~~the jurisdiction or supervision of an agency or institution pursuant to an order of~~
21 ~~such court;~~

22 ~~(b) *Probation or parole* means any kind of conditional release of juveniles~~
23 ~~authorized under the laws of the states party hereto;~~

24 ~~(c) *Court* means any court having jurisdiction over delinquent, neglected or~~
25 ~~dependent children.~~

1 or to the executive authority of the state where the juvenile is alleged to be located a
2 written requisition for the return of such juvenile. Such requisition shall set forth the
3 name and age of the juvenile, the determination of the court that the juvenile has run
4 away without the consent of a parent, guardian, person or agency entitled to his legal
5 custody, and that it is in the best interest and for the protection of such juvenile that
6 he be returned. In the event that a proceeding for the adjudication of the juvenile as
7 a delinquent, neglected or dependent juvenile is pending in the court at the time when
8 such juvenile runs away, the court may issue a requisition for the return of such
9 juvenile upon its own motion, regardless of the consent of the parent, guardian,
10 person or agency entitled to legal custody, reciting therein the nature and circum-
11 stances of the pending proceeding. The requisition shall in every case be executed
12 in duplicate and shall be signed by the judge. One (1) copy of the requisition shall
13 be filed with the Compact Administrator of the demanding state, there to remain on
14 file subject to the provision of law governing records of such court. Upon the receipt
15 of a requisition demanding the return of a juvenile who has run away, the court or
16 the executive authority to whom the requisition is addressed shall issue and order to
17 any peace officer or other appropriate person directing him to take into custody and
18 detain such juvenile. Such detention order must substantially recite the facts
19 necessary to the validity of its issuance hereunder. No juvenile detained upon such
20 order shall be delivered over to the officer whom the court demanding him shall have
21 appointed to receive him, unless he shall first be taken forthwith before a judge of a
22 court in the state, who shall inform him of the demand made for his return, and who
23 shall appoint counsel or guardian and litem for him. If the judge of such court shall
24 find that the requisition is in order he shall deliver such juvenile over the officer
25 whom the court demanding him shall have appointed to receive him. The judge,
26 however may fix a reasonable time to be allowed for the purpose of testing the
27 legality of the proceeding.

1 demand made for his return and who shall appoint counsel or guardian and litem for
2 him. If the judge of such court shall find that the requisition is in order he shall
3 deliver such delinquent juvenile over to the officer whom the appropriate person or
4 authority demanding him shall have appointed to receive him. The judge, however,
5 may fix a reasonable time to be allowed for the purpose of testing the legality of the
6 proceeding.

7 Upon reasonable information that a person is a delinquent juvenile who has
8 absconded while on probation or parole, or escaped from an institution or agency
9 vested with his legal custody or supervision in any state party to this Compact, such
10 person may be taken into custody in any other state party to his Compact without a
11 requisition. But in such event, he must be taken forthwith before a judge of the
12 appropriate court, who may appoint counsel or guardian ad litem for such person
13 and who shall determine, after a hearing whether sufficient cause exists to hold the
14 person subject to the order of the court for such a time, not exceeding ninety (90)
15 days, at will enable his detention order issued on a requisition pursuant to this
16 Article. If, at the time when a state seeks the return of a delinquent juvenile who has
17 either absconded while on probation or parole or escaped from an institution or
18 agency vested with his legal custody or supervision, there is pending in the state
19 wherein he is detained any criminal charge or any proceeding to have him
20 adjudicated a delinquent juvenile for an act committed in such state, or if he is
21 suspected of having committed within such state a criminal offense or an act of
22 juvenile delinquency, he shall not be returned without the consent of such state until
23 discharged from prosecution or other form of proceeding, imprisonment, detention
24 or supervision for such offense or juvenile delinquency. The duly accredited officers
25 of any state party to this Compact, upon the establishment of their authority and
26 identity of the delinquent juvenile being returned, shall be permitted to transport
27 such delinquent juvenile through any and all states party to this Compact, without

1 ~~interference. Upon his return to the state from which he escaped or absconded, the~~
2 ~~delinquent juvenile shall be subject to such further proceedings as may be~~
3 ~~appropriate under the laws of that state.~~

4 ~~(b) That the state to which a delinquent juvenile is returned under this Article~~
5 ~~shall be responsible for payment of the transportation cost of such return.~~

6 ~~Article VI~~

7 ~~Voluntary Return Procedure~~

8 ~~That any delinquent juvenile who has absconded while on probation or parole,~~
9 ~~or escaped from an institution or agency vested with his legal custody or supervision~~
10 ~~in any state party to this Compact, and any juvenile who has run away from any state~~
11 ~~party to this Compact, who is taken into custody without requisition in another state~~
12 ~~party to this Compact under the provisions of Article IV(a) or of Article V(a), may~~
13 ~~consent to his immediate return to the state from which he absconded, escaped or~~
14 ~~ran away. Such consent shall be given by the juvenile or delinquent juvenile and his~~
15 ~~counsel or guardian ad litem if any, by executing or subscribing a writing, in the~~
16 ~~presence of a judge of the appropriate court, which states that the juvenile or~~
17 ~~delinquent juvenile and his counsel or guardian ad litem consent to his return to the~~
18 ~~demanding state. Before such consent shall be executed or subscribed, however, the~~
19 ~~judge, in the presence of counsel or guardian ad litem shall inform the juvenile or~~
20 ~~delinquent juvenile of his rights under this Compact. When the consent has been~~
21 ~~duly executed, it shall be forwarded to and filed with the Compact Administrator of~~
22 ~~the state to which the court is located and the judge shall direct the officer having~~
23 ~~the juvenile or delinquent juvenile in custody to deliver him to the duly accredited~~
24 ~~officer or officers of the state demanding his return; and shall cause to be delivered~~
25 ~~to such officer or officers a copy of the consent. The court may, however, upon the~~
26 ~~request of the state to which the juvenile or delinquent juvenile is being returned,~~
27 ~~order him to return unaccompanied to such state and shall provide him with a copy~~

1 of such court order; in such event a copy of the consent shall be forwarded to the
2 Compact Administrator of the state to which said juvenile or delinquent juvenile is
3 ordered to return.

4 Article VII

5 Cooperative Supervision of Probationers and Parolees

6 (a) ~~That the duly constituted judicial and administrative authorities of a state~~
7 ~~party to this Compact (herein called 'sending state') may permit any delinquent~~
8 ~~juvenile within such state, placed on probation or parole, to reside in any other state~~
9 ~~party to this Compact (herein called 'receiving state') while on probation or parole~~
10 ~~and the receiving state shall accept such delinquent juvenile if the parent, guardian~~
11 ~~or person entitled to the legal custody of such delinquent juvenile is residing or~~
12 ~~undertakes to reside within the receiving state. Before granting such permission,~~
13 ~~opportunity shall be given to the receiving state to make such investigation as it~~
14 ~~deems necessary. The authorities of the sending state shall send to the authorities of~~
15 ~~the receiving state copies of pertinent court orders, social case studies and all other~~
16 ~~available information which may be of value and assist the receiving state in~~
17 ~~supervising a probationer or parolee under this Compact. A receiving state, in its~~
18 ~~discretion, may agree to accept supervision of a probationer or parolee in cases~~
19 ~~where the parent, guardian or person entitled to the legal custody of the delinquent~~
20 ~~juvenile is not a resident of the receiving state, and if so accepted the sending state~~
21 ~~may transfer supervision accordingly.~~

22 (b) ~~That each receiving state will assume the duties of visitation and of~~
23 ~~supervision over any such delinquent juvenile and in the exercise of those duties will~~
24 ~~be governed by the same standards of visitation and supervision that prevail for its~~
25 ~~own delinquent juveniles released on probation or parole.~~

26 (c) ~~That, after consultation between the appropriate authorities of the sending~~
27 ~~state and of the receiving state as to the desirability and necessity of returning such~~

1 ~~a delinquent juvenile, the duly accredited officers of a sending state may enter a~~
2 ~~receiving state and there apprehend and retake any such delinquent juvenile on~~
3 ~~probation or parole. For that purpose, no formalities will be required, other than~~
4 ~~establishing the authority of the officer and the identity of the delinquent juvenile to~~
5 ~~be retaken and returned. The decision of the sending state to retake a delinquent~~
6 ~~juvenile on probation or parole shall be conclusive upon and not reviewable within~~
7 ~~the receiving state, but, if at the time the sending state seeks to retake a delinquent~~
8 ~~juvenile on probation or parole, there is pending against him within the receiving~~
9 ~~state any criminal charge or any proceeding to have him adjudicated a delinquent~~
10 ~~juvenile for any act committed in such state, or if he is suspected of having~~
11 ~~committed within such state a criminal offense or an act of juvenile delinquency, he~~
12 ~~shall not be returned without the consent of the receiving state until discharged from~~
13 ~~prosecution or other form of proceeding, imprisonment, detention or supervision for~~
14 ~~such offense or juvenile delinquency. The duly accredited officers of the sending~~
15 ~~state shall be permitted to transport delinquent juveniles being so returned through~~
16 ~~any and all states party to this Compact, without interference.~~

17 ~~(d) That the sending state shall be responsible under this Article for paying the~~
18 ~~costs of transporting any delinquent juvenile to the receiving state or of returning~~
19 ~~any delinquent juvenile to the sending state.~~

20 ~~Article VIII~~

21 ~~Responsibility for Costs~~

22 ~~(a) That the provisions of Articles IV (b), V (b), and VII (d) of this Compact~~
23 ~~shall not be construed to alter or affect any internal relationship among the~~
24 ~~departments, agencies and officers of and in the government of a party state, or~~
25 ~~between a party state and its subdivisions, as to the payment of costs, or~~
26 ~~responsibilities therefor.~~

1 ~~state receiving such a delinquent juvenile in one of its institutions shall act solely as~~
2 ~~agent for the state sending such delinquent juvenile; (4) provide that the sending~~
3 ~~state shall at all times retain jurisdiction over delinquent juveniles sent to an~~
4 ~~institution in another state; (5) provide for reasonable inspection of such institutions~~
5 ~~by the sending state; (6) provide that the consent of the parent, guardian, person or~~
6 ~~agency entitled to the legal custody of said delinquent juvenile shall be secured prior~~
7 ~~to this being sent to another state; and (7) make provision for such other matters and~~
8 ~~details as shall be necessary to protect the rights and equities of such delinquent~~
9 ~~juveniles and of the cooperating state.~~

10 ~~Article XI~~

11 ~~Acceptance of Federal and Other Aids~~

12 ~~That any state party to this Compact may accept any and all donations, gifts and~~
13 ~~grants of money, equipment and services from the federal or any local government,~~
14 ~~or any agency thereof and from any person, firm or corporation, for any of the~~
15 ~~purposes and functions of this Compact, and may receive and utilize the same subject~~
16 ~~to the terms, conditions and regulations governing such donations, gifts and grants.~~

17 ~~Article XII~~

18 ~~Compact Administrators~~

19 ~~That the Chief Judge of the Superior Court of Guam shall be the Compact~~
20 ~~Administrator and who, acting jointly with like officers of other states, shall~~
21 ~~promulgate rules and regulations to carry out more effectively the terms and~~
22 ~~provisions of this Compact.~~

23 ~~Article XIII~~

24 ~~Execution of Compact~~

25 ~~That this Compact shall become operative immediately upon its execution by~~
26 ~~any state as between it and any other state or states so executing. When executed it~~

1 shall have the full force and effect of law within such state, the form of execution to
2 be in accordance with the laws of the executing state.

3 ~~Article XIV~~

4 ~~Renunciation~~

5 ~~That this Compact shall continue in force and remain binding upon each~~
6 ~~executing state until renounced by it. Renunciation of this Compact shall be by the~~
7 ~~same authority which executed it, by sending six (6) months' notice in writing of its~~
8 ~~intention to withdraw from the Compact to the other states party hereto. The duties~~
9 ~~and obligations of a renouncing state under Article VII hereto shall continue as to~~
10 ~~parolees and probationers residing therein at the time of withdrawal until retaken or~~
11 ~~finally discharged. Supplementary agreements entered into under Article X hereof~~
12 ~~shall be subject to renunciation as provided by such supplementary agreements, and~~
13 ~~shall not be subject to the six (6) months' renunciation notice of the present Article.~~

14 ~~Article XV~~

15 ~~Severability~~

16 ~~That the provisions of this Compact shall be severable and if any phrase, clause,~~
17 ~~sentence or provision of this Compact is declared to be contrary to the constitution~~
18 ~~of any participating state or of the United States or the applicability thereof to any~~
19 ~~government, agency, person or circumstance shall not be affected thereby. If this~~
20 ~~Compact shall be held contrary to the constitution of any state participating therein,~~
21 ~~the Compact shall remain in full force and effect as to the state affected as to all~~
22 ~~severable matters.~~

23 ~~Article XVI~~

24 ~~Out of State Confinement~~

25 ~~(a) This Article, known as the Out of State Confinement Amendment to the~~
26 ~~Interstate Compact on Juveniles, is hereby enacted into law and entered into by this~~

1 ~~Territory with all other states legally joining therein the form substantially as~~
2 ~~follows:~~

3 ~~(1) Whenever the duly constituted judicial or administrative authorities in a~~
4 ~~sending state shall determine that confinement of a probationer or reconfinement~~
5 ~~of a parolee is necessary or desirable, said officials may direct that the~~
6 ~~confinement or reconfinement be in an appropriate institution for delinquent~~
7 ~~juveniles within the Territory of the receiving state, such receiving state to act in~~
8 ~~that regard solely as agent for the sending state.~~

9 ~~(2) Escapees and absconders who could otherwise be returned pursuant to~~
10 ~~Article V of the Compact may be confined or reconfined in the receiving state~~
11 ~~pursuant to this Article. In any such case the information and allegations required~~
12 ~~to be made and furnished in a requisition pursuant to such Article shall be made~~
13 ~~and furnished, but in place of the demand pursuant to Article V, the sending state~~
14 ~~shall request confinement or reconfinement in the receiving state. Whenever~~
15 ~~applicable, detention orders as provided in Article V may be employed pursuant~~
16 ~~to this Paragraph preliminary to disposition of the escapee or absconder.~~

17 ~~(3) The confinement or reconfinement of a parolee, probationer, escapee, or~~
18 ~~absconder pursuant to this Article shall require the concurrence of the~~
19 ~~appropriate judicial or administrative authorities of the receiving state.~~

20 ~~(4) As used in this Article: (1) sending state means sending state as the term~~
21 ~~is used in Article VII of the Compact or the state from which a delinquent~~
22 ~~juvenile has escaped or absconded within the meaning of Article V of the~~
23 ~~Compact; (2) receiving state means any state, other than the sending state, in~~
24 ~~which a parolee, probationer, escapee, or absconder may be found, provided that~~
25 ~~said state is a party to this Article.~~

26 ~~(5) Every state which adopts this Article shall designate at least one of its~~
27 ~~institutions for delinquent juveniles as a Compact Institution and shall confine~~

1 ~~persons therein as provided in Paragraph (a) hereof unless the sending and~~
2 ~~receiving state in question shall make specific contractual arrangement to the~~
3 ~~contrary. All states party to this Article shall have access to Compact Institutions~~
4 ~~at all reasonable hours for the purpose of inspecting the facilities thereof and for~~
5 ~~the purpose of visiting such of said state's delinquents as may be confined in the~~
6 ~~institution.~~

7 ~~(6) Persons confined in "Compact Institutions" pursuant to the terms of this~~
8 ~~Compact shall at all times be subject to the jurisdiction of the sending state and~~
9 ~~may at any time be removed from said ACompact Institution@ for transfer to an~~
10 ~~appropriate institution within the sending state, for return to probation or parole,~~
11 ~~for discharge, or for any purpose permitted by the laws of the sending state.~~

12 ~~(7) All persons who may be confined in a "Compact Institution" pursuant to~~
13 ~~the provisions of this Article shall be treated in a reasonable and humane manner.~~
14 ~~The fact of confinement or reconfinement in a receiving state shall not deprive~~
15 ~~any person so confined or reconfined of any rights which said person would have~~
16 ~~had if confined or reconfined in an appropriate institution of the sending state;~~
17 ~~nor shall any agreement to submit to confinement or reconfinement pursuant to~~
18 ~~the terms of this Article be construed as a waiver of any rights which the~~
19 ~~delinquent would have had if he had been confined or reconfined in any~~
20 ~~appropriate institution of the sending state except that the hearing or hearings, if~~
21 ~~any, to which a parolee, probationer, escapee or absconder may be entitled (prior~~
22 ~~to confinement or reconfinement) by the laws of the sending state may be had~~
23 ~~before the appropriate judicial or administrative officers of the receiving state.~~
24 ~~In this event, said judicial and administrative officers shall act as agents of the~~
25 ~~sending state after consultation with appropriate officers of the sending state.~~

26 ~~(8) Any receiving state incurring costs or other expenses under this~~
27 ~~amendment shall be reimbursed in the amount of such costs or other expenses~~

1 by the sending state unless the states concerned shall specifically otherwise
2 agree. Any two or more states party to this Compact may enter into
3 supplementary agreements determining a different allocation of costs as among
4 themselves.

5 (A) Rules and regulations necessary to effectuate the terms of this Article
6 may be promulgated by the appropriate officers of those states which have
7 enacted this Article.

8 (B) In addition to any institution in which the authorities of this Territory
9 may otherwise confine or order the confinement of a delinquent juvenile, such
10 authorities may, pursuant to this Article, confine or order the confinement of
11 a delinquent juvenile in a Compact Institution within another party state.

12 **~~§ 90.84. Chief Judge of Superior Court to be Compact Administrator: Duties.~~**

13 Pursuant to the Compact the Presiding Judge of the Superior Court shall be the
14 Compact Administrator and shall promulgate rules and regulations to carry out the
15 terms of the Compact. The Compact Administrator may enter into agreements with
16 appropriate officials of other states or territories pursuant to the Compact. The
17 Compact Administrator shall cooperate with all departments, agencies and officers
18 of and in the government of Guam in facilitating the proper administration of the
19 Compact or of any agreements entered into by Guam thereunder.

20 **ARTICLE 4**

21 **PRISON INDUSTRIES**

22 **~~§ 90.90. Prison Industries, Established.~~**

23 (a) ~~Prison Industries, Established.~~ The Department of Corrections is hereby
24 authorized to establish such prison industries as may be feasible to provide a means
25 for inmates and detainees to receive job training and skills development; to provide
26 opportunities for the earning of wages to be used to pay restitution to victims of
27 crime, and payment of fines and court costs; and to provide additional means for

1 funding certain recurring expenses of the Department. The Department *shall*
2 separate and designate each prison industry to be established as occurring “within
3 the secured perimeter” or occurring “outside the secured perimeter.” This Act is *not*
4 meant to replace the activities authorized by Chapter 84 of Article 1, Title 9, Guam
5 Code Annotated, but *shall* be viewed as authorizing additional activities. This
6 Chapter *shall not* supersede, *nor* affect any programs undertaken pursuant to Chapter
7 81 of this Title.

8 ~~(b) Role of Corrections Advisory Council. The Corrections Advisory Council~~
9 ~~*shall* advise the Department on the suitability of any industry to be established, and~~
10 ~~may assist the Department in other matters relative to the establishment, operation,~~
11 ~~and maintenance of a chosen industry. (c) Earnings Formula, established. Inmates~~
12 ~~shall be paid at no less than local prevailing wage rates as determined by the Director~~
13 ~~of Labor. Each inmate participating in a prison industry shall have all wages earned~~
14 ~~subject to this Earnings Formula:~~

15 ~~(1) Twenty five percent (25%) to the Criminal Injuries Compensation Fund.~~

16 ~~(2) Twenty five percent (25%) to payment of court ordered fines, fees, and~~
17 ~~restitution. When such court ordered fines, fees, and restitution have been~~
18 ~~satisfied, this percentage shall be applied to the Inmate’s Account.~~

19 ~~(3) Twenty five percent (25%) to the Prison Industries Revolving Fund.~~

20 ~~(4) Twenty five percent (25%) to the Inmate’s Account. Each participating~~
21 ~~inmate may elect to provide up to one hundred percent (100%) of the twenty-~~
22 ~~five percent (25%) for child and spousal support.~~

23 ~~(5) In the event that the participating inmate does not owe any sum listed~~
24 ~~above, one hundred percent (100%) of earned wages shall be placed in the~~
25 ~~Inmate’s Account.~~

26 ~~(d) Eligibility to Participate. The Department *shall* establish criteria for~~
27 ~~determining an inmate’s eligibility for participation in an established prison industry.~~

1 ~~All inmates shall be eligible for participation in an established prison industry~~
2 ~~consistent with eligibility requirements for other in-house prison rehabilitation~~
3 ~~programs unless otherwise ordered by a Court.~~

4 ~~(e) In-kind Contributions and/or Credit for Services Allowed. The Department~~
5 ~~is authorized to enter into agreements with other government of Guam entities to~~
6 ~~receive in-kind contributions and/or a credit for services rendered in lieu of cash~~
7 ~~payments.~~

8 ~~(f) Authority to Bid Granted. Notwithstanding the provisions of § 84.10(e) of~~
9 ~~Chapter 84, Article 1 of Title 9, Guam Code Annotated, the Department may submit~~
10 ~~its bid for the provision of services to a non-government entity, provided, that it~~
11 ~~includes as a component of its bid the costs for housing, utilities, food, supplies and~~
12 ~~any other item that would normally be considered as part of the overhead costs.~~

13 **§ 90.91. Prison Industries Revolving Fund.**

14 (a) There is hereby created, within the Department of Corrections, a revolving
15 fund called the “Prison Industries Revolving Fund” (Fund), which *shall* be
16 established by the Department of Administration in accordance with the following
17 provisions:.

18 (b) ~~All funds collected from § 90.90(c) shall be deposited into said Fund.~~

19 (1) ~~Funds in the Prison Industries Revolving Fund may be used to purchase~~
20 ~~clothing for prisoners and detainees, foodstuffs for the dining facility, galley~~
21 ~~catering services and equipment, medical/dental supplies, prescription and over-~~
22 ~~the-counter medicines, sanitary/hygiene supplies and other pharmaceutical~~
23 ~~supplies for prisoners and detainees, including, payment for prisoner detainee~~
24 ~~maintenance costs in any off-island prison or medical institutions, payment for~~
25 ~~overtime and related personnel costs for personnel specifically assigned to tasks~~
26 ~~involving Prison Industries, and for training of Department of Corrections~~
27 ~~personnel.~~

1 (c) Nothing in this Section shall prohibit the Director from recruiting a resident
2 who is a non-immigrant alien admitted into Guam under the Compacts of Free
3 Association between the United States and the Federated States of Micronesia, the
4 Republic of the Marshall Islands, and the Republic of Palau.

5 **§ 90.204. Training, Equipping, and Maintenance of Records.**

6 (a) Training for the CCRP members *shall* be conducted pursuant to the
7 provisions of the Peace Officer Standards and Training (POST) Commission in 17
8 GCA Chapter 51. Initial training requirements *shall* be identical to those required of
9 DOC cadets.

10 (b) The Director *shall* maintain a roster of reservists who have received the
11 training prescribed by 17 GCA Chapter 51. In order to maintain membership in the
12 CCRP, each member must keep up with his scheduled training, and no reservist may
13 remain in the CCRP if he or she is unable to keep up with or otherwise absorb the
14 training. Additionally, basic supplies and equipment *shall* be provided to ensure a
15 constant operability of the CCRP, including a continuing program for replacement.

16 (c) Any member of the CCRP who has *not* met the minimum
17 qualifications/certifications for firearms safety and proficiency, physical fitness,
18 recruitment clearances, and background checks *shall not* be allowed to serve in the
19 CCRP.

20 **§ 90.205. Reservist: Authority.**

21 Whenever members of the CCRP are rendering assistance to DOC, such
22 volunteers *shall* have the same powers, duties, rights (including coverage under the
23 Worker's Compensation Act), privileges and immunities, as if they were paid, full-
24 time members of the Department of Corrections, except that they *shall* earn
25 recruitment credit for services performed as volunteers.

26 **§ 90.206. Same: Allowance.**

1 Each member of the CCRP who successfully completes probationary
2 requirements as established by the Director, and who serves a minimum of twenty
3 (20) hours to maintain good standing as a CCRP officer, and forty-two (42) hours
4 per month, *shall* receive an allowance of Five Hundred Dollars (\$500) per month to
5 defray the cost of maintenance of their equipment and uniforms. The Department
6 of Corrections *shall* identify funds within their department appropriations to satisfy
7 the intent of this Section.

8 **§ 90.207. Authorization for Full-Time CCRP Officers.**

9 (a) The Department of Corrections (DOC) may employ a CCRP officer on a
10 temporary, full-time basis, if such officer is an active member and has attained at
11 least two thousand eighty (2,080) cumulative service hours when a critical need
12 arises due to military activation of DOC officers or absence due to long-term
13 disability status that has been certified by a medical doctor. DOC may exercise this
14 authority provided its authorized budget for personnel is *not* exceeded. The CCRP
15 officer *shall* return to reservist status pursuant to this Article when the incumbent
16 returns from military service or long-term disability or at the discretion of the
17 Director.

18 (b) When employed by DOC, a CCRP officer may only serve as an equivalent
19 of Corrections Officer I and be compensated as a Corrections Officer I, Step I. Said
20 CCRP officer *shall* be eligible to receive sick leave, be eligible for the Government
21 of Guam Health Insurance Program, and *shall not* be eligible for a stipend as a
22 Reserve officer for the duration of their temporary employment with DOC.

23 (c) A CCRP reservist *shall* be offered permanent employment in the event a
24 permanent position becomes available at DOC; provided, that the reservist meets all
25 of the qualifications as prescribed in this Article. The Director *shall* promulgate rules
26 and regulations that determine the order in which reservists are selected for
27 permanent service.

1 (d) Notwithstanding 10 GCA § 77114(a)(1), a CCRP officer who serves as a
2 Corrections Officer I, Step I under this Section may be a non-immigrant alien
3 admitted into Guam under the Compacts of Free Association between the United
4 States and the Federated States of Micronesia, the Republic of the Marshall Islands,
5 and the Republic of Palau.

6 **§ 90.208. Same: Eligibility and Oath.**

7 (a) No person shall be a volunteer member of the CCRP established under this
8 Article who advocates a change by force or violence in the constitutional form of the
9 Government of the United States or of Guam, or the overthrow of any government
10 in the United States by force, or who has been convicted of or is under indictment or
11 information charging any subversive act against the United States.

12 (b) Every volunteer *shall*, entering upon his duties, take an oath, in writing,
13 before a person authorized to administer oaths in Guam, which oath *shall* be
14 substantially as follows:

15 “I _____, do solemnly swear (or affirm) that I will
16 support and defend the Constitution of the United States and the laws of
17 Guam, against all enemies, foreign or domestic; that I will bear true faith and
18 allegiance to the same; that I take this obligation freely, without any mental
19 reservation or purpose of evasion; and that I will well and faithfully
20 discharge the duties upon which I am about to enter and I do further swear
21 (or affirm) that I do not advocate, nor am I a member of any political party
22 or organization that advocates the overthrow of the Government of the
23 United States or of Guam by force or violence; and that during such time as
24 I am a member of the Civilian Corrections Reserve Program I will not
25 advocate nor become a member of any political party or organization that
26 advocates the overthrow of the Government of the United States or Guam by
27 force or violence.”

1 **§ 90.209. Rules and Regulations: Recommendations.**

2 The Director is authorized and empowered to recommend to the Governor for
3 issuance as executive orders the making, amendment, and rescission of such orders,
4 rules and regulations as may be necessary to carry out the provisions of this Article.

5 **ARTICLE 7**

6 **THE DEPARTMENT OF CORRECTIONS MODERNIZATION ACT OF 2021**

7 **§ 90.301. Legislative Findings and Policy.**

8 (a) I Liheslaturan Guåhan finds that the Department of Corrections (DOC) was
9 established by Public Law 9-208 on July 18, 1968 within the executive branch of the
10 Government of Guam. Before the enactment of Public Law 9-208, the Department
11 of Corrections was first known as the Guam Penitentiary and through Executive
12 Order 68-23, issued by Governor Manuel F.L Guerrero, the Penitentiary was
13 transferred to the Department of Corrections, which was effective on November 1,
14 1968.

15 (b) The Department of Corrections is the only prison on Guam and provides
16 services to local and federal agencies. DOC provides custodial care to individuals
17 who are convicted of crimes and for those who are waiting judicial disposition. The
18 environment of the prison must meet federal standards such as the National Prison
19 Standards, Prison Rape Elimination Act (PREA), and the National Commission on
20 Correctional Healthcare Standards (NCCHC), which ensures that the living
21 conditions are decent and humane; but, with the issue of overcrowding and structural
22 failures, DOC has been struggling to properly execute their mandates and comply
23 with national standards. DOC is ensuring that it prevents any violations of the
24 Federal Consent Decree, which requires the Government of Guam to improve the
25 living conditions of the inmates following the Civil Rights of Institutionalized
26 Persons Act.

1 (c) The Adult Correctional Facility (ACF) in Mangilao is in its stages of failure
2 due to age and lack of modern technology, which is affecting the operations and
3 personnel of the correctional agency. The ACF was built to hold a maximum of three
4 hundred (300) inmates and detainees; and currently, the population of Guam is
5 growing as well as its crime rates, while DOC has outgrown its ACF. Over time,
6 other DOC buildings were added to address the overcrowding issues of the ACF,
7 and buildings used for rehabilitation and offices were re-designed to accommodate
8 the rising population of prisoners. The Adult Correctional Facility is made of fifteen
9 (15) housing units, which holds not only local inmates and detainees, but also
10 immigration and federal detainees. The lack of proper facilities prevents DOC from
11 properly providing rehabilitation to the inmates.

12 (d) The poor condition of the housing units of the prison is not cost effective or
13 adequate to handle the growing prisoner population, and DOC recognized the
14 difficulty in meeting its mandates of providing security, health, rehabilitation and
15 welfare to the inmates and detainees under its care without compromising the well-
16 being of its personnel. The main goal of the Department of Corrections is to provide
17 rehabilitation to individuals who have been convicted of crimes and ensure that they
18 become useful members of the community and to themselves.

19 (e) Furthermore, I Liheslaturan Guåhan finds that DOC has plans to build a new
20 Department of Corrections facility with a bed capacity for one thousand (1,000)
21 inmates to replace its current prison if funding was available. The new prison would
22 provide the proper space to meet its mandates and the demands of its growing
23 prisoner population. The Department of Corrections had started to draft an eighty
24 (80)-year master plan, which will provide a phase-to-phase plan to construct a new
25 Department of Corrections facility that will meet its construction goal of a bed
26 capacity of one thousand (1,000) inmates. The Department of Corrections' goal is to
27 ensure that all the issues on structural, technology, and security of the inmates and

1 personnel are covered. The master plan also ensures that DOC meets all federal
2 standards such as the National Prison Standards and PREA standards.

3 (f) Therefore, it is the intent of I Liheslaturan Guåhan to provide the Department
4 of Corrections with the proper confinement of offenders in a controlled environment
5 prison and community-based facilities that are safe, humane, cost-efficient, and
6 appropriately secure, which also promotes the safety of the people of Guam. I
7 Liheslaturan Guåhan has identified funding to construct a new Department of
8 Corrections Adult Correctional Facility through the Earned Income Tax Credits to
9 be reimbursed to Guam at an estimated Sixty Million Dollars (\$60,000,000)
10 annually, of which an estimate of no more than Five Million Dollars (\$5,000,000)
11 will be allocated for the payments of the lease-back agreement.

12 (g) In an effort to overcome financing hurdles, and to provide DOC with the
13 proper tools to meet its mandates, I Liheslaturan Guåhan desires to authorize the
14 Government of Guam to enter into contract for the financing, design, construction,
15 and long-term capital maintenance of a new Department of Corrections facility with
16 private sector contractors who can provide long-term financing.

17 (h) To facilitate the financing, design, construction, and maintenance of a new
18 Department of Corrections facility envisioned by this Act, the Government of Guam
19 will be authorized to execute a lease agreement of existing property under its
20 inventory for up to thirty (30) years on which the new Department of Corrections
21 facility will be constructed.

22 (i) The lease of the Government of Guam's property will be to the contractor
23 and/or the Guam Economic Development Authority, who will design and construct
24 the new Department of Corrections facility and provide a funding for the design and
25 construction through appropriations received from the reimbursement of the Earned
26 Income Tax Credit for Fiscal Year 2022 and prospective appropriations from the
27 General Fund, thereafter annually. Upon completion of the construction, the

1 facilities and land will be leased back to the Government of Guam for a period not
2 to exceed the initial ground lease to the contractor over which time the Government
3 of Guam will amortize, as lease payments to the contractor, the cost of financing,
4 design, construction, and related expenses of the new Department of Corrections.

5 (j) The contractor/developer will also be responsible for the capital maintenance
6 and repair of the Department of Corrections constructed under this Act, which costs
7 shall be paid by the Government of Guam as provided for under this Act. At the
8 expiration of the lease-back period, the Government of Guam real property and the
9 Department of Corrections constructed on the Government of Guam real property
10 will revert to the Government of Guam with no further obligations to the contractor.

11 **§ 90.302. Definitions.**

12 For the purposes of this Article and unless otherwise specified, the following
13 words and phrases are defined to mean:

14 (a) *Act* means Article 7 of Title 9, Chapter 90, Guam Code Annotated, which
15 shall be known as “The Department of Corrections Modernization Act of 2021.”

16 (b) *Contract* shall mean the design, construction, and financing contract
17 entered by and between the Government of Guam and the contractor following
18 negotiations on the response to the Request for Proposal.

19 (c) *Contractor/developer* shall mean the authorized entity which shall be the
20 signatory on the contract and shall be fully responsible for carrying out the
21 finance, design, construction, and maintenance of the new Department of
22 Corrections. The contractor/developer may cooperate with another entity or
23 entities in any manner the contractor/developer deems appropriate to provide for
24 the financing, design, and construction of the new Department of Corrections
25 envisioned by this Chapter.

26 (d) The *Department of Corrections Construction Committee* shall be chaired
27 by the Administrator or Deputy Administrator of the Guam Economic

1 Development Authority, and include the Director and Deputy Director of the
2 Department of Corrections, the Director or Deputy Director of the Department
3 of Public Works, the Director or Deputy Director of the Department of Land
4 Management, the Director or Deputy Director of the Bureau of Statistics and
5 Planning, the Director or Deputy Director of the Bureau of Budget and
6 Management Research, and the Director or Deputy Director of the Department
7 of Administration.

8 (e) *Correctional agency* shall mean the Department of Corrections.

9 (f) *Correctional facility* shall mean the Department of Corrections Adult
10 Correctional Facility.

11 (g) *Lease* shall mean a lease from the Government of Guam itself or through
12 the Department of Corrections to the contractor/developer entered at the time of
13 the contract for the property.

14 (h) *Lease-back* shall mean the lease from the Guam Economic Development
15 Authority and/or the contractor/developer to the Government of Guam itself or
16 by and through the Department of Corrections of the newly constructed
17 Department of Corrections.

18 (i) *Property* shall mean any property on which a new Department of
19 Corrections is located.

20 **§ 90.303. Authorization to Enter into Long-Term Leases.**

21 (a) For the purpose of facilitating the financing, design, construction, and
22 maintenance of the new Department of Corrections encompassed by this Act, the
23 Government of Guam is authorized to lease property that will be used for the new
24 Department of Corrections, as required, to the contractor/developer and/or the Guam
25 Economic Development Authority; provided, such property is in the inventory of the
26 Government of Guam.

1 (b) The Government of Guam is also authorized to lease-back from the
2 contractor/developer and/or the Guam Economic Development Authority the
3 property for a period mutually agreed upon between the Government of Guam and
4 the contractor/developer and/or the Guam Economic Development Authority as may
5 be reasonably necessary to amortize the lease-back period of no more than thirty
6 (30) years the cost associated with the design, construction, and maintenance of the
7 new Department of Corrections. In no event shall the end of such lease-back period
8 be structured as an annually renewable lease with a provision for automatic renewals
9 to the extent that pledged revenue under § 90.308 is available. The lease-back shall
10 not be construed as a debt under any applicable debt limitation under the Organic
11 Act of Guam or Guam law.

12 **§ 90.304. Identification Projects and Procurement.**

13 (a) The Guam Economic Development Authority, in consultation with the
14 Director of the Department of Corrections, shall utilize the program study of the
15 correctional agency to identify and prioritize potential projects to be completed.

16 (1) The list of projects identified by the Program Study of the correctional
17 agency shall be included in one (1) Request for Proposal developed by the Guam
18 Economic Development Authority.

19 (A) Upon receipt of the Program Study, the Guam Economic
20 Development Authority, in consultation with the Director of the Department
21 of Corrections, shall solicit Request for Proposals (RFP) for a
22 contractor/developer, in compliance with the Guam Procurement Law, for
23 the financing, design, and construction of the Department of Corrections,
24 according to the needs of the correctional agency and consistent with this
25 Article.

26 (B) GEDA is also hereby authorized to solicit the services for a Program
27 Management Office, which shall include, but not be limited to, creating

1 scopes of work, coordinating projects and performance targets, conducting
2 periodic quality control reviews, assuring timely product generation and
3 response, and managing the project to produce a quality product within the
4 budget and schedule.

5 (2) The choice of the contractor/developer shall be made by the Department
6 of Corrections Construction Committee. The committee shall assess the prior
7 performance of the contractor/developer on similar projects, and shall be free to
8 disqualify any contractor/developer that does not have a successful record of
9 project completion on Guam or any similar isolated locality.

10 (b) The Committee shall also specifically consider the contractor/developer's
11 ability and performance with regards to the financing, development and construction
12 of a correctional facility on Guam or any similar isolated locality.

13 (c) The selection of a contractor/developer shall be based upon the proposal that
14 delivers the lowest cost value for Guam in meeting the objectives of the correctional
15 agency.

16 (d) GEDA shall issue an RFP within thirty (30) days after the conclusion of its
17 Program Study, in consultation with the Department of Corrections for the design,
18 construction, and maintenance of the correctional facilities.

19 **§ 90.305. Responsibility of Contractor/Developer.**

20 The contract shall require that the contractor/developer be responsible for all
21 costs, expenses, and fees of any kind or nature, associated with the design, civil
22 improvements, on-site and off-site infrastructure, construction, permits, and
23 financing associated with the completion of the Department of Corrections to the
24 extent provided by GEDA in consultation with the Department of Corrections in the
25 Request for Proposal. The lease may, for the purposes herein, provide that its term
26 shall be extended for a period not to exceed the shorter of ten (10) years beyond the

1 original term of the lease-back, or such period of time as is necessary to repay in full
2 any financing arranged pursuant to § 90.309 of this Article.

3 **§ 90.306. Contractual Safeguards.**

4 Prior to undertaking the work of finance, design, construction, and maintenance
5 of the new Department of Corrections, the Guam Economic Development Authority,
6 in consultation with the Department of Corrections and the contractor/developer,
7 shall negotiate and enter into a binding construction contract to build the new
8 Department of Corrections in accordance with Guam Building Code under 21 GCA
9 Chapter 67, Guam Fire Safety Codes and any other applicable requirements. The
10 construction contract shall contain contractual obligations typically found in
11 Government of Guam construction contracts, including, but not limited to:

12 (a) warranties;

13 (b) liquidated damages;

14 (c) performance and payments bonds;

15 (d) indemnity;

16 (e) insurance;

17 (f) standard specifications;

18 (g) technical specifications;

19 (h) progress schedule;

20 (i) maintenance;

21 (j) compliance with Guam labor regulations;

22 (k) compliance with Guam prevailing wage rates for employment of
23 temporary alien workers (H2) on Guam;

24 (l) compliance with Public Law 28-98: restriction against contractors
25 employing convicted sex offenders to work at Government of Guam venues; and

26 (m) the 2017 Guam Tropical Energy Code.

1 The contract must be approved as to form and legality by the Attorney General of
2 Guam.

3 **§ 90.307. Assignments.**

4 To facilitate the purpose of this Act and provide security for the holders of any
5 financing instruments issued pursuant to this Act, the contractor/developer may
6 assign, without the need of the consent of the Guam Economic Development
7 Authority, the contract, the lease and the lease-back to any underwriter, trustee, or
8 other party as appropriate to facilitate the contractor/developer financing.

9 **§ 90.308. Pledge or Reservation of Revenues.**

10 (a) Rental payments under the lease and the lease-back may be secured by a
11 pledge or other reservation of revenues collected by the Government of Guam from
12 the following:

13 (1) The sum of no more than Five Million Dollars (\$5,000,000) from the
14 revenues received pursuant to 11 GCA Chapter 42, Earned Income Tax Credit
15 will be available for Fiscal Year 2022 only.

16 (2) The sum of no more than Five Million Dollars (\$5,000,000) from the
17 General Fund shall be appropriated annually thereafter.

18 (3) The Governor of Guam may use federal funds that are made available to
19 the Government of Guam by the United States Federal Government for the
20 financing, design, construction, and maintenance of the new Department of
21 Corrections facility.

22 (4) The use of other financing options is authorized for the purpose of this
23 Act, including, but not limited to, loans, grants, bond financing, and other
24 alternate funding options, subject to legislative approval.

25 (b) Any amounts reserved or pledged as provided in this Section shall be subject
26 to annual appropriations for the purpose of making lease-back payments. The
27 revenues pledged or reserved and thereafter received by the Government of Guam

1 or by any trustee, depository, or custodian shall be deposited in a separate account
2 and shall be immediately subject to such reservation or the lien of such pledge
3 without any physical delivery thereof or further action, and such reservation or the
4 lien of such pledge shall be valid and binding against all parties having claims of any
5 kind in tort, contract or otherwise against the Government of Guam or such trustee,
6 depository or custodian, irrespective of whether the parties have notice thereof. The
7 instrument by which such pledge or reservation is created need be recorded.

8 **§ 90.309. Use of Tax-Exempt Bond, Taxable Bond, and Other Financing**
9 **Instruments for Financing.**

10 (a) To minimize the financing cost to the Government of Guam, financing
11 utilized by the contractor/developer to fund the design, construction, and
12 maintenance of the Department of Corrections shall be through tax-exempt
13 obligations, taxable bond obligation, or other financial instruments; provided, such
14 financing is available at interest rates determined by the Guam Economic
15 Development Authority to be reasonable and competitive. The Guam Economic
16 Development Authority shall be the issuer of any financial instruments or
17 obligations unless the Guam Economic Development Authority waives its right to
18 serve as the issuer of financial instruments or obligations. Alternatively, the
19 contractor may use an alternative method of financing, including, but not limited to,
20 a short-term debt, mortgage, loan, federally guaranteed loan or loan by an
21 instrumentality of the United States of America if such financing will better serve
22 the needs of the people of Guam. Such alternative financing shall be approved by *I*
23 *Liheslaturan Guåhan*. The purpose for the requirements of this Section is to assure
24 that the Government of Guam pays the lowest possible interest rate so that the cost
25 of the Government of Guam's financing of the design and construction of the
26 Department of Corrections, amortized through the lease-back payments from the

1 Government of Guam to GEDA and or the contractor/developer, will be lower than
2 regular commercial rates.

3 (b) *I Liheslaturan Guåhan*, pursuant to § 50103(k) of Chapter 50, Title 12, Guam
4 Code Annotated, hereby authorizes the Guam Economic Development Authority to
5 issue one or more additional series of tax-exempt and/or taxable obligations (in any
6 case, the “bonds”) for the purpose of financing the Department of Corrections Adult
7 Correctional Facility, in an aggregate principal amount not to exceed Eighty Million
8 Dollars (\$80,000,000) for the following purposes:

9 (1) to finance the design, construction, and/or the maintenance of the
10 Department of Corrections Adult Correctional Facility;

11 (2) to fund a deposit to a debt service reserve fund;

12 (3) to fund capitalized interest with respect to the bonds; and

13 (4) to pay expenses relating to the authorization, sale, and issuance of the
14 bonds, including without limitation, printing costs, costs of reproducing
15 documents, credit enhancement fees, underwriting, legal, feasibility, financial
16 advisory and accounting fees and charges, fees paid to banks, or other financial
17 institutions providing credit enhancement fees, costs of credit ratings and other
18 costs, charges and fees in connection with the issuance, sale, and delivery of the
19 bonds, subject to the following additional conditions:

20 (A) The terms and conditions of the bonds shall be as determined by the
21 Guam Economic Development Authority by the execution of a certificate,
22 trust agreement or indenture authorizing the issuance of the bonds; provided,
23 however, that such terms and conditions shall be consistent with this Section,
24 that the bonds shall have a final maturity not to exceed thirty (30) years; and
25 an interest rate not to exceed seven percent (7%).

1 (B) No bonds authorized by this Section shall be sold until the Board of
2 Directors of Guam Economic Development Authority has approved the sale
3 by resolution, as provided in Chapter 50 of Title 12, Guam Code Annotated.

4 (C) The issuance of bonds pursuant to this Section shall not be subject to
5 the approval of the voters of Guam.

6 **§ 90.310. Prison IT, Building, and Security Management System.**

7 (a) For the purpose of ensuring the long-serving duration of the Department of
8 Corrections facility, GEDA may include in the specifications for the new
9 correctional facility, the requirement for a prison information management system,
10 a security and surveillance system, and a building management system. These
11 systems identified must be done in consultation with the Department of Corrections
12 and comply with the federal mandates related to prison records and to foster
13 compliance with the Federal Standards for Prisons and Jails.

14 (b) GEDA, in consultation with the Department of Corrections, may determine
15 the specifications for such systems based on comprehensive, state-of-the-art
16 technology generally accepted within the United States Prison Industry in
17 connection with the development for a new Department of Corrections facility. The
18 specifications shall require that all systems are designed by the same software
19 developer so as to ensure the delivery of the rehabilitation to the inmates.

20 (c) In order to ensure immediate response to system downtimes or failure, GEDA
21 may include in the specifications the requirement that the provider of these systems
22 have a local Guam Office and service technicians stationed on Guam.

23 **§ 90.311. Utilities and Routine Maintenance and Repair.**

24 The contractor/developer shall be responsible for the connection and payment of
25 all utilities, including without limitation, power, water, sewer, telephone, and cable
26 and all maintenance and repair and exterior groundskeeping and landscaping and
27 upkeep of the Department of Corrections.

1 **§ 90.312. Maintenance Fund.**

2 The contract with the contractor/developer, and the lease-back shall provide that
3 all capital maintenance and repair of the Department of Corrections facility be
4 performed by the contractor/developer. The contractor/developer shall provide
5 sufficient funding for a separate maintenance fund for this purpose; sufficient funds
6 for this purpose shall be defined as the cost of capital maintenance and repair for the
7 remaining period of the lease agreement with the Government of Guam after the
8 completion of the Department of Corrections. The maintenance fund shall be used
9 exclusively for the purpose of capital maintenance and repair and shall be in an
10 interest-bearing account segregated from other funds held in escrow.

11 **§ 90.313. Rules and Regulations.**

12 The Guam Economic Development Authority, in consultation with the
13 Department of Corrections, may promulgate rules and regulations pursuant to the
14 Administrative Adjudication Law as necessary to implement the provisions of this
15 Article.

16 **§ 90.314. Financial Plan Required.**

17 GEDA shall prepare a financial plan in accordance with the following:

18 (a) At a minimum, the financial plan shall include a comprehensive report
19 of the associated costs and sources of revenues required for the duration of the
20 Department of Corrections Modernization Act of 2021 (Project). The financial
21 plan should reflect the total Project cost and any phases that represent the Project
22 development priorities. All anticipated Project revenues shall be matched and
23 allocable to the anticipated Project costs and shall detail its impact on the overall
24 debt ceiling.

25 (b) The financial plan shall be submitted to *I Maga'hågan Guåhan* and
26 transmitted to the Speaker of *I Liheslaturan Guåhan*. No solicitation of Request
27 for Proposal or invitation for bid authorized to effectuate the requirements of this

1 Act may be issued until the financial plan is delivered to the Speaker of *I*
2 *Liheslaturan Guåhan*.

3 **Section 28. Chapter 91, Title 9, Guam Code Annotated, is hereby *repealed***
4 ***and reenacted in its entirety as follows:***

5 **CHAPTER 91**

6 **INFANT CHILD'S RIGHT TO LIFE ACT**

7 **§ 91.01. Title.**

8 This Act may be known and cited as the “Infant Child’s Right to Life Act.”

9 **§ 91.02. Legislative Findings and Purpose.**

10 (a) I Liheslaturan Guåhan finds that:

11 (1) All children, no matter their age, have the right to life. Guam has a
12 paramount interest in protecting all human life.

13 (2) If an abortion results in the live birth of an infant, the infant is a legal
14 person for all purposes under the laws of Guam.

15 (3) Guam must assert its interest in protecting an infant whose live birth
16 occurred as the result of an abortion.

17 (4) Without proper legal protection, newly-born infants who survive
18 abortions could be denied proper life-saving or life-sustaining medical treatment
19 and left to die.

20 (b) Accordingly, it is the purpose of this Act to ensure the protection and
21 promotion of the health and wellbeing of all infants born alive in Guam. Therefore,
22 this Act mandates that healthcare providers give medically appropriate and
23 reasonable life-saving and life-sustaining medical care and treatment to all born alive
24 infants.

25 **§ 91.03. Definitions.**

26 For the purposes of this Act only:

1 (a) Abortion means the termination of a human pregnancy with an intention
2 other than to produce a live birth or to remove a dead fetus.

3 (b) Born alive or live birth means the complete expulsion or extraction of an
4 infant from his or her mother, regardless of the state of gestational development,
5 that, after expulsion or extraction, whether or not the umbilical cord has been cut
6 or the placenta is attached, and regardless of whether the expulsion or extraction
7 occurs as a result of natural or induced labor, cesarean section, or induced
8 abortion, shows any evidence of life, including, but not limited to, one or more
9 of the following:

10 (1) breathing;

11 (2) a heartbeat;

12 (3) umbilical cord pulsation; or

13 (4) definite movement of voluntary muscles.

14 (c) Consent means knowledge of and explicit or implicit agreement to or
15 instruction to perform a violation of this Act.

16 (d) Facility or medical facility means any public or private hospital, clinic,
17 center, medical school, medical training institution, healthcare facility,
18 physician's office, infirmary, dispensary, ambulatory surgical treatment center,
19 or other institution or location wherein medical care is provided to any person.

20 (e) Infant, for the purposes of this Act, and as used in this Act, means a child
21 of the species *homo sapiens* that has been completely expelled or extracted from
22 its mother, regardless of the stage of gestational development, until the age of
23 thirty (30) days post birth. An infant is also a human being for purposes of
24 Chapter 16 of Title 9, Guam Code Annotated.

25 (f) Premature or preterm means occurring prior to the thirty-seventh (37th)
26 week of gestation.

27 **§ 91.04. Requirements and Responsibilities.**

1 (a) A person shall not deny or deprive an infant of nourishment with the intent
2 to cause or allow the death of the infant for any reason.

3 (b) A person shall not deprive an infant of medically appropriate and reasonable
4 medical care and treatment or surgical care.

5 (c) The requirements of this Section shall not be construed to prevent an infant's
6 parent(s) or guardian(s) from refusing to give consent to medical treatment or
7 surgical care which is not medically necessary or reasonable, including care or
8 treatment which either:

9 (1) is not necessary to save the life of the infant;

10 (2) has a potential risk to the infant's life or health that outweighs the
11 potential benefit to the infant of the treatment or care; or

12 (3) is treatment that will do no more than prolong the act of dying when death
13 is imminent.

14 (d) The physician performing an abortion must take all medically appropriate
15 and reasonable steps to preserve the life and health of an infant. If an abortion
16 performed in a hospital results in a live birth, the physician attending the abortion
17 shall provide immediate medical care to the infant, inform the mother of the live
18 birth, and request the transfer of the infant to a resident, on-duty or emergency care
19 physician, who shall provide medically-appropriate and reasonable medical care and
20 treatment to the infant. If an abortion performed in a facility other than a hospital
21 results in a live birth, a physician attending the abortion shall provide immediate
22 medical care and treatment to the infant and call 9-1-1 for an emergency transfer of
23 the infant to a hospital that shall provide medically-appropriate and reasonable care
24 and treatment to the infant.

25 (e) If the physician described in Subsection (d) of this Section is unable to
26 perform the duties in that Subsection because he is assisting the woman on whom
27 the abortion was performed, then an attending physician's assistant, nurse, or other

1 licensed healthcare provider must assume the duties outlined in that Subsection.

2 (f) Any infant, including one born in the course of an abortion procedure, shall
3 be treated as a legal person under the laws of Guam, with the same rights to
4 medically-appropriate care and treatment, and birth and death (if death occurs)
5 certificates shall be issued accordingly.

6 (g) If, before the abortion, the mother and the father have stated in writing that
7 they do not wish to keep the infant in the event that the abortion results in a live
8 birth, and this writing is not retracted before the abortion, the infant, if born alive,
9 shall immediately upon birth become a ward of Guam.

10 (h) No person may use any infant for any type of scientific research or other kind
11 of experimentation except as necessary to protect or preserve the life and health of
12 the premature born alive infant.

13 **§ 91.05. Criminal Penalties.**

14 (a) Any physician, nurse, or other licensed healthcare provider who intentionally
15 with premeditation, or intentionally, or knowingly, or recklessly, or by criminal
16 negligence fails to provide reasonable and medically-appropriate and reasonable
17 care and treatment to an infant in the course of an abortion shall be guilty of a
18 criminal homicide, as defined in Chapter 16 of Title 9, Guam Code Annotated, and
19 may be punished in accordance with that Chapter. The mother will not be liable,
20 criminally or civilly, for actions of a physician, nurse, or other licensed healthcare
21 provider, in violation of this Act to which she did not give her consent.

22 (b) Any violation of § 91.04(h) of this Act concerning the research use of a born-
23 alive infant is a felony of the first degree, and upon conviction may be punished in
24 accordance with Article 2, Chapter 80 of Title 9, Guam Code Annotated.

25 **§ 91.06. Civil and Administrative Action.**

26 In addition to whatever remedies are available under the common or statutory
27 laws of Guam, failure to comply with the requirements of this Act shall:

1 (a) provide a basis for a civil action for compensatory and punitive damages.
2 Any conviction under this Act shall be admissible in a civil suit as *prima facie*
3 evidence of a failure to provide medically appropriate and reasonable care and
4 treatment to a born-alive infant. Any civil action may be based on a claim that
5 the death of or injury to the born-alive infant was a result of simple negligence,
6 gross negligence, wantonness, willfulness, intentional conduct, or another
7 violation of the legal standard of care;

8 (b) provide a basis for professional disciplinary action for the suspension or
9 revocation of any license of physicians, licensed and registered nurses, or other
10 licensed or regulated persons. Any conviction of any person for any failure to
11 comply with the requirements of this Act shall result in the automatic suspension
12 of his or her license for a period of at least one year, and shall be reinstated after
13 that time only under such conditions as shall be required to ensure compliance
14 with this Act; and

15 (c) provide a basis for recovery for the parent(s) of the infant, or the parent(s)
16 or guardian(s) of the mother if the mother is a minor, for the wrongful death of
17 the infant whether or not the infant was viable at the time abortion was
18 performed.

19 **Section 29. The following sections in Chapter 60, Title 10, Guam Code**
20 **Annotated are**
21 **hereby *amended* to read:**

22 **TITLE 10 GUAM CODE ANNOTATED**

23 **CHAPTER 60 FIREARMS**

24 **§ 60109. Concealed Firearms.**

25 No identification card shall be issued permitting the holder to carry a concealed
26 firearm of any nature unless:

1 ~~(a) the applicant shows exceptional cause therefore. Such exceptional causes~~
2 ~~shall include, but not be limited to, facts which show that such concealment is~~
3 ~~absolutely necessary for an individual who is engaged in the protection of persons~~
4 ~~or property, or who shows that he has a genuine reason to fear for the safety of~~
5 ~~his person or property and that a concealed firearm would materially lessen the~~
6 ~~danger. Such permission, once stated upon the identification card, shall not be~~
7 ~~renewed unless, at the time for renewal, the application shows a continuing need~~
8 ~~for such permission, using the standards for such permission as they exist at the~~
9 ~~time for renewal. It shall be unlawful for any person to carry any firearm~~
10 ~~concealed unless he has received permission to carry such firearm and such~~
11 ~~permission is stated upon the face of his identification card; or~~

12 (b) an applicant meets the requirements for a concealed firearms license as
13 defined in §60109.1 of this Chapter. It shall be unlawful for any person to carry
14 any firearm concealed unless he has received permission in accordance with the
15 provisions of this Chapter to carry such firearm and such permission is stated
16 upon the face of his identification card.

17 **§ 60110. Registration.**

18 Any person purchasing, receiving by gift, device or otherwise, acquiring or
19 otherwise coming into permanent possession of a firearm, the possession of which
20 is permitted by this chapter, shall register the same with the Department within ~~three~~
21 ~~(3)~~ five (5) working days after acquiring said firearm on the forms specified by the
22 Department provided however any member of the United States Coast Guard or any
23 Armed Forces of the United States arriving in Guam for a permanent change of
24 station (“PCS”), or a dependent of the same, shall have 180 days from the arrival of
25 the firearm(s) with their household goods to register such firearm(s). Failure to
26 register shall result in a civil fine of \$10.00 per day that the firearm is unregistered,
27 in addition to the other penalties provided in this chapter. Any such fines shall be

1 paid to the Treasurer of Guam for the account of the Department of Revenue and
2 Taxation. Such facts and information shall be given so as to enable the Department
3 to record for identification purposes the firearm so registered. It shall be unlawful
4 for any person to own or possess any firearm which has not been registered. No
5 firearm may be registered by the Department unless the person presenting the
6 firearm also displays current identification card evidencing his eligibility to own,
7 possess, use or carry the firearm presented for inspection as to the facts required for
8 registration. Any firearm registration which expires on or after March 1, 1988 or
9 which is thereafter issued under this chapter shall be permanent for as long as the
10 registrant retains the firearm. The Chief of Police shall promulgate rules and
11 regulations establishing a permanent firearms identification card and a reasonable
12 fee to cover the cost incurred.

13 **§ 60110.1. Firearms.**

14 A grace period for payment of fees due for renewal of registration or for new
15 registration for a firearm for a member of the United States Coast Guard or any
16 Armed Forces of the United States including but not limited to the Guam National
17 Guard or Reserves or a dependent of a member of the same ~~of the Guam National~~
18 ~~Guard or Reserves,~~ shall be in effect while that member is on active service outside
19 Guam and for the next one hundred eighty (180) days after completion of such
20 service. No interest or penalties shall be assessed for any period prior to expiration
21 of the one hundred eighty (180) days.