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
232-38 (COR)	Frank F. Blas, Jr. Telo T. Taitague Vincent A. V. Borja William A. Parkinson Eulogio Shawn Gumataotao Shelly V. Calvo V. Anthony Ada Chris Barnett Tina Rose Muña-Barnes	AN ACT *AMEND* §§ 1.10, 1.14, 1.16, 1.18, 1.19, 1.20, 1.22, 1.24, 1.26, 1.30 AND 1.60 OF CHAPTER 1, TO *REPEAL* AND *REENACT* §§ 1.12, 1.34, 1.36, 1.38, 1.42, 1.44, 1.46, 1.48 OF CHAPTER 1 AND TO *REPEAL* § 1.80 OF CHAPTER 1; TO *AMEND* §§ 4.45, 4.50, 4.70 AND 4.75 OF CHAPTER 4; TO *AMEND* §§ 16.30, 16.40 AND 16.50 OF CHAPTER 16; TO *AMEND* §§ 19.50, 19.70 AND 19.81 OF CHAPTER 19; TO *AMEND* § 25.10 OF CHAPTER 25; TO *AMEND* §§ 25A102, 25A103, 25A104, 25A105 AND TO *ADD* A NEW § 25A106 OF CHAPTER 25A; TO *AMEND* §§ 31.30 AND 31.70, TO *REPEAL* §§ 31.35, 31.37, 31.60 AND 31.65 OF CHAPTER 31; TO *AMEND* §§ 34.50, 34.60 AND 34.70 OF CHAPTER 34; TO *AMEND* § 37.20 AND TO *REPEAL* 37.40 OF CHAPTER 37; TO *AMEND* §§ 43.20 AND 43.31 OF CHAPTER 43; TO *AMEND* §§ 46.30, 46.35, 46.80, 46.102, 46.103 AND 46.504 AND TO *REPEAL* §§ 46.50 AND 46.104 OF CHAPTER 46; TO *AMEND* §§ 52.10, 52.30, 52.55 AND 52.60 OF CHAPTER 52; TO *AMEND* §§ 55.10, 55.15, 55.20, 55.25, 55.30, 55.35, 55.40, 55.50 AND 55.60 OF CHAPTER 55; TO *AMEND* §§ 70.15, 70.20, 70.25, 70.35, 70.50, 70.60(a), 70.65(g), 70.80(b), 70.320(d), 70.330(c) AND 70.420, TO *REPEAL* §§ 70.55, AND 70.430 OF CHAPTER 70; TO *AMEND* CHAPTER 71; TO *REPEAL* CHAPTERS 86 AND 87; TO *AMEND* §§ 90.10, 90.15, 90.16, 90.25, 90.27, 90.30, 90.35, 90.40, 90.41, 90.42, 90.43, 90.44, 90.45, 90.47, 90.48, 90.49, 90.51, 90.54, 90.90 AND 90.91, TO *ADD* A NEW § 90.26, TO *REPEAL* §§ 90.20, 90.80, 90.82 AND 90.84 OF CHAPTER 90 ALL OF TITLE 9 GUAM CODE ANNOTATED; TO *ADD* A NEW ARTICLE 3, CHAPTER 20 OF TITLE 19 GUAM CODE ANNOTATED; AND TO *AMEND* §60109, §60110, CHAPTER 60 OF 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.*	11/20/25 10:30 a.m.						

I MINA'TRENTAI OCHO NA LIHESLATURAN GUAHAN
2025 (FIRST) Regular Session

Bill No. 232-38 (COR)

Introduced by: Frank F. Blas, Jr.
Telo T. Taitague
Vincent A.V. Borja
William A. Parkinson
Eulogio S. Gumataotao
Shelly V. Calvo
V. Anthony Ada
Chris Barnett
Tina Rose Muña-Barnes

AN ACT *AMEND* §§ 1.10, 1.14, 1.16, 1.18, 1.19, 1.20, 1.22, 1.24, 1.26, 1.30 AND 1.60 OF CHAPTER 1, TO REPEAL AND *REENACT* §§ 1.12, 1.34, 1.36, 1.38, 1.42, 1.44, 1.46, 1.48 OF CHAPTER 1 AND TO *REPEAL* § 1.80 OF CHAPTER 1; TO *AMEND* §§ 4.45, 4.50, 4.70 AND 4.75 OF CHPATER 4; TO *AMEND* §§ 16.30, 16.40 AND 16.50 OF CHAPTER 16; TO *AMEND* §§ 19.50, 19.70 AND 19.81 OF CHAPTER 19; TO *AMEND* § 25.10 OF CHAPTER 25; TO *AMEND* §§ 25A102, 25A103, 25A104, 25A105 AND TO *ADD* A NEW § 25A106 OF CHAPTER 25A; TO *AMEND* §§ 31.30 AND 31.70, TO *REPEAL* §§ 31.35, 31.37, 31.60 AND 31.65 OF CHAPTER 31; TO *AMEND* §§ 34.50, 34.60 AND 34.70 OF CHAPTER 34; TO *AMEND* § 37.20 AND TO *REPEAL* 37.40 OF CHAPTER 37; TO *AMEND* §§ 43.20 AND 43.31 OF CHAPTER 43; TO *AMEND* §§ 46.30, 46.35, 46.80, 46.102, 46.103 AND 46.504 AND TO *REPEAL* §§ 46.50 AND 46.104 OF CHAPTER 46; TO *AMEND* §§ 52.10, 52.30, 52.55 AND 52.60 OF CHAPTER 52; TO *AMEND* §§ 55.10, 55.15, 55.20, 55.25, 55.30, 55.35, 55.40, 55.50 AND 55.60 OF CHAPTER 55; TO *AMEND* §§ 70.15, 70.20, 70.25, 70.35, 70.50, 70.60(a), 70.65(g), 70.80(b), 70.320(d), 70.330(c) AND 70.420, TO *REPEAL* §§ 70.55, AND 70.430 OF CHAPTER 70; TO *AMEND* CHAPTER 71; TO *REPEAL* CHAPTERS 86 AND 87; TO *AMEND* §§ 90.10, 90.15, 90.16, 90.25, 90.27, 90.30, 90.35, 90.40, 90.41, 90.42, 90.43, 90.44, 90.45, 90.47, 90.48, 90.49, 90.51, 90.54, 90.90 AND 90.91, TO *ADD* A NEW § 90.26, TO *REPEAL* §§ 90.20, 90.80, 90.82 AND 90.84 OF CHAPTER 90 ALL OF TITLE 9 GUAM CODE ANNOTATED; TO *ADD* A NEW ARTICLE 3, CHAPTER 20 OF TITLE 19 GUAM CODE ANNOTATED; AND TO *AMEND* §60109, §60110, CHAPTER 60 OF 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*.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. Public Law 36-119 created the Guam Criminal Law and Procedure Review Commission ("CLRC") Act. The CLRC Act mandated the Commission to review the criminal laws of Guam and to recommend enactments, amendments, and repeals to *I Liheslaturan Guåhan*. More specifically, the Commission must conduct a comprehensive and systematic review of the Guam Criminal Procedure Code codified in Title 8 of the Guam Code Annotated, the Guam Criminal and Correctional Code codified in Title 9 of the Guam Code Annotated, and other criminal laws outside of Titles 8 and 9. The Commission is required to prioritize the review of the Criminal and Correctional Code and the focus of this legislation relates to Title 9.

Therefore, it is the intent of *I Liheslaturan Guåhan* to adopt the recommendations to amend, *REPEAL*, or enact new laws relative to Title 9 of the Guam Code Annotated as fully set forth below.

Section 2. § 1.10 of Chapter 1, Title 9, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 1.10. Short Title.**

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

Section 3. § 1.12 of Chapter 1, Title 9, Guam Code Annotated, is hereby *repealed and reenacted* to read:

"~~**§ 1.12. Severability.**~~

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

§ 1.12. Rules of Construction.

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

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

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

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

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

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

(f) Shall is mandatory and may is permissive.

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

Section 4. § 1.14 of Chapter 1, Title 9, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) to promote restitution to victims;

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

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

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

Section 5. § 1.16 of Chapter 1, Title 9, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 1.16. Territorial Applicability.**

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

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

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

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

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

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

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

(b) ~~Paragraph (1) of~~ Subsection (a)(1) does not apply when either causing a specified result or an intent to cause or danger of causing such a result is an element of an offense and the result occurs or is designed or likely to occur only in another jurisdiction where the conduct charged would not constitute an offense, unless a legislative purpose plainly appears to declare the conduct criminal regardless of the place of the result.

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

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

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

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

Section 6. § 1.18 of Chapter 1, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 1.18. Classes of Crimes.**

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

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

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

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

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

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

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

Section 7. § 1.19 of Chapter 1, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

(1) felonies of the first degree;

(2) felonies of the second degree;

(3) felonies of the third degree.

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

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

Section 8. § 1.20 of Chapter 1, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 1.20. Relationship of Code to Other Laws; Contempt, Penalties and Remedies.**

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

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

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

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

Section 9. § 1.22 of Chapter 1, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

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

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

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

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

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

Section 10. § 1.24 of Chapter 1, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

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

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

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

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

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

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

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

Section 11. § 1.26 of Chapter 1, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

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

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

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

(3) the same conduct, unless (A) the offense of which the defendant was formerly convicted or acquitted and the offense for which he is subsequently prosecuted each requires proof of a fact not required by the other and the law defining each of such offenses is intended to prevent a substantially different harm or evil, or (B) the second offense was not consummated when the former trial began.

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

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

Section 12. § 1.30 of Chapter 1, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

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

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

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

Section 13. § 1.34 of Chapter 1, Title 9, Guam Code Annotated, is hereby *repealed*:

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

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

Section 14. § 1.36 of Chapter 1, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 1.36. Headings.**~~

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

Section 15. § 1.38 of Chapter 1, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 1.38. Amendments Included.**~~

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

Section 16. § 1.42 of Chapter 1, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 1.42. Tenses.**~~

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

Section 17. § 1.44 of Chapter 1, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 1.44. Gender.**~~

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

Section 18. § 1.46 of Chapter 1, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 1.46. Number.**~~

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

Section 19. § 1.48 of Chapter 1, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 1.48. Shall and May.**~~

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

Section 20. § 1.60 of Chapter 1, Title 9, Guam Code Annotated, is hereby *amended* to read:

"§ 1.60. General Definitions Applicable to Entire Title.

Unless otherwise expressly stated:

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

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

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

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

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

~~(f)~~ Person means any natural person, partnership, firm, association, corporation or other legal entity.

Section 21. § 1.80 of Chapter 1, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 1.80. Territory.**~~

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

Section 22. §4.45 of Title 9, Chapter 4, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

Section 23. §4.50 of Chapter 4, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

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

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

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

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

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

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

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

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

Section 24. § 4.70 of Chapter 4, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

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

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

Section 25. § 4.75 of Chapter 4, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

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

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

Section 26. § 16.30 of Chapter 16, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 16.30. Aggravated Murder Defined.**

(a) Criminal homicide constitutes aggravated murder when:

(1) it is committed intentionally with premeditation; or

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

(3) death is directly caused by the illegal use of a Schedule I or Schedule II Controlled Substance, as defined by Chapter 67 of this Title, to a minor child under the age of eighteen (18) years old ~~(Any person who knowingly or willingly transfers or sells any Schedule I Controlled Substance, as defined by Chapter 67 of this Title, to a minor child under the age of eighteen (18) years old in violation of the provisions of Chapter 67 of this Title, and such controlled substances directly causes the death of such minor child, is guilty of aggravated murder. This Section~~

~~shall *not* apply to health care professionals and pharmacists in the legitimate practice of the healing arts.)~~; or

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

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

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

Section 27. § 16.40 of Chapter 16, Guam Code Annotated, is hereby *amended* to read:

"**§ 16.40. Murder Defined.**

(a) Criminal homicide constitutes murder when:

(1) it is committed intentionally or knowingly; or

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

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

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

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

Section 28. § 16.50 of Chapter 16, Guam Code Annotated, is hereby *amended* to read:

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

(a) Criminal homicide constitutes manslaughter when:

(1) it is committed recklessly; or

(2) a homicide which would otherwise be murder is committed under the influence of extreme mental or emotional disturbance for which there is reasonable explanation or excuse (The reasonableness of such explanation or excuse ~~shall be determined from the viewpoint of a reasonable person in the defendant's situation under the circumstances as he believes them to be. The defendant must prove the reasonableness of such explanation or excuse by a preponderance of the evidence.)~~; or

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

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

(b) The reasonableness of such explanation or excuse shall be determined from the viewpoint of a reasonable person in the defendant's situation under the circumstances as he believes them to be. The defendant must prove the reasonableness of such explanation or excuse by a preponderance of the evidence.

~~(b)~~ (c) Manslaughter is a felony of the first degree."

Section 29. § 19.50 of Chapter 19, Guam Code Annotated, is hereby *amended* to read:

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

(a) A person is guilty of terroristic conduct if he threatens to commit any crime of violence with intent to cause evacuation of a building, place of assembly~~;~~, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such inconvenience.

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

Section 30. § 19.70 of Chapter 19, Guam Code Annotated, is hereby *amended* to read:

"**§ 19.70. Stalking.**

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

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

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

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

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

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

Section 31. § 19.81 of Chapter 19, Guam Code Annotated, is hereby *amended* to read:

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

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

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

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

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

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

Section 32. § 25.10 of Chapter 25, Guam Code Annotated, is hereby *amended* to read:

"**§ 25.10. Definitions.**

(a) As used in this Chapter:

(1) "Actor" means a person accused of criminal sexual conduct;

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

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

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

(3) "Force" or "Coercion" includes, but is not limited to, any of the following circumstances:

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

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

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

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

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

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

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

(6) "Mentally Incapacitated" means

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

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

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

(A) unconscious,

(B) asleep,

(C) unable to withhold consent or to withdraw consent because of a physical condition, or

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

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

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

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

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

(12) "Affinity" means family members related by marriage. The method of computing degrees of affinity is the same method as computing degrees of consanguinity.

(13) "Consanguinity or relationship by blood (related by blood)" as used in this Chapter, means relationship between persons arising by descent from a common ancestor or a relationship by birth rather than by marriage. The degree of consanguinity is determined by counting upward from one of the persons in question to the nearest common ancestor, and then down to the other person, calling it one degree for each generation in the ascending as well as the descending line.

(14) "Cunnilingus" is the touching of the urethral opening, vaginal opening, or labia with the actor's mouth.

(b) Whenever in this Chapter the criminality of conduct depends on a child's being below the age of fourteen (14), it is no defense that the defendant reasonably believed the child to be fourteen (14) or older. Whenever in this Chapter the criminality of conduct depends on a child's being below a specified age older than fourteen (14), it is an affirmative defense that the defendant reasonably believed the child to be of that age or above."

Section 33. § 25A102 of Chapter 25A, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

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

(2) another person, in reckless disregard of the risk that the other person is under the age of eighteen (18) years, and the other person is under the age of eighteen (18) years; or

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

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

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

Section 34. § 25A103 of Chapter 25A, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

(1) intentionally or knowingly communicates:

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

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

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

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

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

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

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

Section 35. § 25A104 of Chapter 25A, Title 9, Guam Code Annotated, is hereby *amended* to read:

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

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

(1) intentionally or knowingly communicates:

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

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

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

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

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

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

Section 36. §25A105 of Chapter 25A, Guam Code Annotated, is hereby *amended* to read:

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

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

(1) intentionally or knowingly communicates:

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

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

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

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

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

(B) that is a first degree felony; or

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

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

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

Section 37. § 25A106 of Chapter 25A, Guam Code Annotated, is hereby *added* to read:

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

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

Section 38. § 31.30 of Chapter 31, Guam Code Annotated, is hereby *amended* to read:

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

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

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

(2) inflicts upon a child unjustifiable physical pain or mental suffering; or willfully causes or permits any child to suffer;

~~(3) inflicts upon a child unjustifiable physical pain or mental suffering; or~~

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

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

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

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

(C) neglects that child.

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

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

(1) For purposes of this Subsection, "authorized Safe Haven personnel" has the same meaning as defined under the Newborn Infant Safe Haven Act, 19 GCA § 13503(a).

(2) For purposes of this Subsection, "mother" has the same meaning as defined under the Newborn Infant Safe Haven Act, 19 GCA § 13503(d).

(3) For purposes of this Subsection, "newborn infant" has the same meaning as defined under the Newborn Infant Safe Haven Act, 19 GCA § 13503(e).

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

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

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

Section 39. § 31.35 of Chapter 31, Guam Code Annotated, is hereby *repealed*:

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

Section 40. § 31.37 of Chapter 31, Guam Code Annotated, is hereby *repealed*:

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

Section 41. § 31.60 of Chapter 31, Guam Code Annotated, is hereby *repealed*:

"~~**§ 31.60. Criminal Spouse Abuse: Penalty.**~~"

Section 42. § 31.65 of Chapter 31, Guam Code Annotated, is hereby *repealed*:

"**~~§ 31.65. Curfew Hours for Minors.~~**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(8) *Public Place* means any place to which the public *or* a substantial group of the public has access and includes, *but is not limited to*, streets, highways, and~~

~~the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.~~

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

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

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

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

~~(b) Offenses.~~

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

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

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

~~(c) Defenses.~~

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

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

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

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

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

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

~~(F) attending *or* traveling to or returning home without detour from an official school, religious, *or* other recreational activity supervised by~~

~~adults and sponsored by the government of Guam, a civic organization, *or* another similar entity that takes responsibility for the minor, *or* going to *or* returning home from, without any detour *or* stop, an official school, religious, *or* other recreational activity supervised by adults and sponsored by the government of Guam, a civic organization, *or* another similar entity that takes responsibility for the minor;~~

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

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

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

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

~~(e) Penalties.~~

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

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

Section 43. § 31.70 of Chapter 31, Guam Code Annotated, is hereby *amended* to read:

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

(a) A parent, legal guardian, or other person, at least twelve (12) years of age, responsible for a child five (5) years of age or younger, may not leave such child unattended or unsupervised in a motor vehicle:

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

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

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

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

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

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

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

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

Section 44. § 34.50 of Chapter 34, Guam Code Annotated, is hereby *amended* to read:

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

A person commits *criminal mischief* if~~:~~

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

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

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

~~(2) recklessly causes or threatens a substantial interruption or impairment of any public utility service; or~~

~~(c)~~ he intentionally damages the property of ~~another or forest land; or~~

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

Section 45. § 34.60 of Chapter 34, Guam Code Annotated, is hereby *amended* to read:

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

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

(~~b~~ a) A violation of ~~subsection (a) of~~ § 34.50 is a second degree felony if the defendant's conduct causes ~~or is intended to cause~~ pecuniary loss of Five Thousand Dollars ($5,000.00) or more, a third degree felony if the defendant's conduct causes ~~or is intended to cause~~ pecuniary loss of Twenty-Five Hundred Dollars ($2500.00) or more ~~in excess of Five Hundred Dollars ($500.00)~~, a misdemeanor if the defendant's conduct causes ~~or is intended to cause~~ pecuniary loss of Five Hundred Dollars ($500) or more ~~in excess of Fifty Dollars ($50.00)~~, and a petty misdemeanor if the defendant's conduct causes ~~or is intended to cause~~ pecuniary loss of less than Five Hundred Dollars ($500.00). ~~in excess of Twenty-four Dollars ($24.00). Otherwise, criminal mischief is a violation.~~

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

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

In addition to any punishment listed in subsection (~~c~~ b), the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly

by the defendant's offense in the amount or manner determined by the court. Furthermore, the person or if a minor, his or her parents, shall re-paint or refurbish the property so damaged, destroyed, removed, or defaced at such person's expense, under the supervision of the affected property owner or a court representative. The person shall also perform a minimum of one hundred eighty (180) hours but not to exceed three hundred sixty (360) hours of community service. Parents or legal guardians of any minor found to have violated this subsection shall also be responsible for providing supervision as well as paying for the fine if the minor is unable to do so.

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

Section 46. § 34.70 of Chapter 34, Guam Code Annotated, is hereby *amended* to read:

"**§ 34.70. Graffiti Prohibited.**

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

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

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

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

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

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

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

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

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

(e) Possession of spray paint or broad-tipped indelible markers by minors on private property is prohibited without consent of the owner. No person under the age of eighteen (18) shall have in his or her possession any aerosol container of spray paint or broad-tipped indelible marker while on any private property unless the owner, agent or manager, or person in possession of the property knows of the minor's possession of the aerosol container or marker and has consented to the minor's possession of the aerosol container or marker while on his or her property.

(f) Any person violating subsections (b), (c), (d) or (e) shall be punished by a fine of one thousand dollars ($1,000.00) for the first offense, and two thousand five hundred dollars ($2,500.00) for the second offense; and for each subsequent offense by a fine of five thousand dollars ($5,000.00) or by imprisonment for a term *not to exceed* one hundred twenty (120) days or by both fine and imprisonment at the discretion of the court. In the case of a minor, the parents or legal guardian *shall* be responsible for payment of all fines. Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents or legal guardian's property to include the fine and court costs.

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

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

(i) In addition to any punishment listed in subsections (f), (g) and (h), any adult convicted for violating subsections (b), (c), (d) or (e) is guilty of a misdemeanor punishable by imprisonment ~~for not less than a mandatory sixty (60) days~~.

(j) All personal property, including, but not limited to, automobiles and bicycles, used or intended to be used in violating subsections (b), (c), (d) or (e) shall be forfeitable to Guam. In any forfeiture under this section, the Court shall not order a forfeiture unless it finds that the forfeiture is commensurate with the severity of the violation to the extent required by the laws of Guam, the Organic Act, and the U.S. Constitution.

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

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

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

"GRAFFITI IS A CRIME. ANY PERSON DEFACING REAL OR PERSONAL PROPERTY NOT HIS OR HER OWN WITH PAINT OR ANY OTHER LIQUID OR DEVICE IS GUILTY OF A CRIME PUNISHABLE BY IMPRISONMENT OF UP TO ONE HUNDRED TWENTY (120) DAYS AND/OR A FINE UP TO FIVE THOUSAND DOLLARS ($5.000.00)."

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

"IT IS A VIOLATION OF THE LAW TO SELL AEROSOL CONTAINERS OF SPRAY PAINT OR BROAD-TIPPED INDELIBLE MARKERS TO PERSONS UNDER 18 YEARS OF AGE PUNISHABLE BY A CIVIL FINE OF TW0 HUNDRED FIFTY DOLLARS ($250.00)."

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

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

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

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

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

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

Section 47. § 37.20 of Chapter 37, Guam Code Annotated, is hereby *amended* to read:

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

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

(b) Burglary is a felony of the second degree. In the case of burglary as a felony of the second degree, the court shall impose a sentence of imprisonment of a minimum term of five (5) years, and may impose a maximum term of up to ten (10) years; the minimum term imposed shall not be suspended nor may probation be imposed in lieu of the minimum term nor shall parole or work release be granted before completion of the minimum term. The sentence shall include a special parole term of not less than three (3) years, in addition to such term of imprisonment. Provided, however, that in the case of an offender not previously convicted of a felony, the court may sentence the offender to not more than five (5) years imprisonment as a third degree felony conviction, and the

provisions of this Subsection prohibiting probation, suspension, parole or work release shall not be applicable to such offender.

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

Section 48. § 37.40 of Chapter 37, Guam Code Annotated, is hereby *repealed*:

"~~**§ 37.40. The Breaking of Window Glass to Gain Access to Vehicles.**~~

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

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

Section 49. § 43.20 of Chapter 43, Guam Code Annotated, is hereby *amended* to read:

"**§ 43.20. Theft; Defined & Punishment Classified.**

(a) *Theft* constitutes a felony of the second degree if the amount involved is Five Thousand Dollars ($5000.00) or more ~~exceeds One Thousand Five Hundred Dollars ($1,500)~~ or if the property stolen is a bus, truck, automobile, aircraft, motorcycle, or motor boat, or in the case of theft by receiving stolen property, if the defendant is in the business of buying and selling stolen property. In the case of theft as a felony of the second degree, the court shall impose a sentence of imprisonment of a minimum term of five (5) years and may impose a maximum term of up to ten (10) years; the minimum term imposed shall not

be suspended nor may probation be imposed in lieu of the minimum term nor shall parole or work release be granted before completion of the minimum term. The sentence shall include a special parole term of not less than three (3) years in addition to such term of imprisonment provided, however, that in the case of an offender not previously convicted of a felony or of an offense constituting theft, the court may sentence the offender to not more than five (5) years imprisonment and the provisions of this subsection prohibiting probation, suspension, parole, or work release shall not be applicable to such offender.

(b) Theft constitutes a felony of the third degree if the amount involved is Twenty-Five Hundred Dollars ($2500.00) or more ~~is less than One Thousand Five Hundred Dollars ($1,500.00) but exceeds Five Hundred Dollars ($500.00)~~ or if the property stolen is a firearm or motorized vehicle other than those set forth in Subsection (a) of this Section, or if the theft is through an unauthorized electrical connection

(c) Theft not constituting a felony of the second or third degree is a misdemeanor if the amount involved is Five Hundred Dollars ($500.00) or more ~~exceeds Fifty Dollars ($50)~~ or if the property stolen is a credit card or if the property was taken from the person or by extortion.

(d) Theft not constituting a felony of the second or third degree or a misdemeanor is a petty misdemeanor if the amount involved is less than Five Hundred Dollars ($500.00).

(e) The amount involved in a theft shall be the fair market value of the property or services which the defendant stole or attempted to steal. Whether or not they have been issued or delivered, written instruments not having a readily ascertained market value shall be evaluated as follows:

(1) The value of an instrument constituting an evidence of a debt, such as a check, draft or promissory note, shall be the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.

(2) The value of any other instrument that creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(f) Amounts involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons or ~~amount~~ amounts involved in thefts by a servant, agent or employee from his principal or employer in any period of twelve (12) consecutive months, may be aggregated in determining the grade of the offense."

Section 50. § 43.31 of Chapter 43, Guam Code Annotated, is hereby *amended* to read:

"**§ 43.31. Crime Against the Community; Defined and Punishment.**

(a) A person is guilty of a Crime Against the Community if that person knowingly takes, obtains or exercises unlawful control over government-owned, leased or borrowed property, or interferes with, obstructs, or takes action regarding government services in such a way that: (1) doing so creates a threat to the public health and safety; or (2) doing so results in a deprivation of public services, such as utility services, the education of public or private school students, or any government service intended to benefit the public.~~; or (3) does so for a purpose other than the original purpose for which the property or services were to be provided.~~

(b) A person is guilty of a Crime Against the Community if that person knowingly destroys, defaces, alters, tampers with or damages government-owned, leased or borrowed property.

(c) A Crime Against the Community shall be alleged, in an information, complaint or indictment, as a Special Allegation which enhances punishment when the defendant is convicted of another offense. A Crime Against the Community shall be tried to a jury if the underlying crime is tried to a jury.

(d) A person convicted of a Crime Against the Community shall be sentenced to:

(1) Insofar as is practicable, make restitution to the victim of the crime, including the government of Guam or the Federal government;

(2) Insofar as is practicable, perform community service intended to raise community awareness that a crime against the public interest has been committed and is being punished, including, *but not limited to*, repair, painting and cleaning of items which are stolen, damaged or defaced; or

(3) Serve one (1) year of incarceration and pay an additional fine of up to Five Thousand Dollars ($5,000.00) in addition to the sentence imposed for the underlying crime, if the underlying crime is a misdemeanor or felony. The court may suspend said term of incarceration and impose a term of probation instead."

Section 51. § 46.30 of Chapter 46, Guam Code Annotated, is hereby *amended* to read:

"**§ 46.30. Issuance of Dishonored Checks.**

(a) Definitions. For the purpose of this section, the following terms have the meanings given them.

(1) *Check* means a check, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument.

(2) *Credit* means an arrangement or understanding with the drawee for the payment of a check.

(b) Acts constituting. Whoever issues a check which, at the time of issuance, the issuer intends shall not be paid, is guilty of issuing a dishonored check and may be sentenced as provided in subsection (b)(1). In addition, restitution may be ordered by the court.

(1) Penalties. A person who is convicted of issuing a dishonored check under subsection (b) is:

(A) guilty of a petty misdemeanor ~~punishable by imprisonment for not more than sixty (60) days or by payment of a fine of not more than $500, or both ,~~ if the value of the dishonored check, or checks aggregated under paragraph (2), is not more than Five Hundred Dollars ($500.00) ~~$250~~; or

(B) guilty of a misdemeanor ~~punishable by imprisonment for not more than one (1) year, or by payment of a fine of not more than $2,000, or both,~~ if the value of the dishonored check, or checks aggregated under paragraph (2), is equal to or more than Five Hundred Dollars ($500) but less than Two-Thousand Five Hundred dollars ($2,500.00) ~~$250, but not more than $1000~~; or

(C) guilty of a felony of the third degree ~~punishable by imprisonment for not more than five (5) years, or by payment of a fine of~~

~~not more than $5,000, or both,~~ if the value of the dishonored check, or checks aggregated under paragraph (2), is equal to or more than $2,500.00 but less than $10,000.00. ~~or more is more than $1,000~~.

(D) guilty of a felony of the second degree if the value of the dishonored check, or checks aggregated under paragraph (2), is $10,000.00 or more.

(2) In a prosecution under this paragraph, the value of dishonored checks issued by the defendant in violation of this subsection within any six-month period may be aggregated and the defendant charged accordingly in applying this section.

(c) Proof of intent. Any of the following is evidence sufficient to sustain a finding that the person at the time the person issued the check intended it should not be paid:

(1) proof that, at the time of issuance, the issuer did not have an account with the drawee;

(2) proof that, at the time of issuance, the issuer did not have sufficient funds or credit with the drawee and that the issuer failed to pay the check within thirty (30) days after mailing of notice of nonpayment or dishonor as provided in this subsection; or

(3) proof that, when presentment was made within a reasonable time, the issuer did not have sufficient funds or credit with the drawee and that the issuer failed to pay the check within thirty (30) days after mailing of notice of nonpayment or dishonor as provided in this subsection.

Notice of nonpayment or dishonor that includes a citation to this section shall be sent by the payee or holder of the check to the maker or drawer by certified mail, return receipt requested, or by regular mail, supported by an affidavit of service by mailing, to the address printed on the check. Refusal by the maker or drawer of the check to accept certified mail notice or failure to claim certified or regular mail notice is not a defense that notice was not received.

The notice may state that unless the check is paid in full within thirty (30) days after mailing of the notice of nonpayment or dishonor, the payee or holder of

the check will or may refer the matter to proper authorities for prosecution under this section.

An affidavit of service by mailing shall be retained by the payee or holder of the check.

(d) Proof of lack of funds or credit. If the check has been protested, the notice of protest is admissible as proof of presentation, nonpayment, and protest, and is evidence sufficient to sustain a finding that there was a lack of funds or credit with the drawee.

(e) Exceptions. This section does not apply to a postdated check or to a check given for a past consideration, except a payroll check or a check issued to a fund for employee benefits."

Section 52. § 46.35 of Chapter 46, Guam Code Annotated, is hereby amended to read:

"**§ 46.35. Fraudulent Use of Credit Cards; Defined & Punished.**

(a) A person commits an offense if he uses a credit card or the account number of a credit card account with the intent of obtaining property or services with knowledge that:

(1) the card or account number is stolen or forged;

(2) the card or account number has been revoked or cancelled; or

(3) for any other reason his use of the card is unauthorized.

(b) It is an affirmative defense to prosecution under Paragraph (3) of Subsection (a) if the defendant proves by a preponderance of the evidence that he had the ability and intended to meet all obligations to the issuer arising out of his use of the card.

(c) Credit card means a writing purporting to evidence an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

(d) An offense under this Section is:

(1) A petty misdemeanor if the value of the property or services secured or sought to be secured by means of the credit card is equal to or less than Five Hundred Dollars ($500.00);

(2) A misdemeanor if the value of the property or services secured or sought to be secured by means of the credit card is greater than Five Hundred Dollars ($500.00) and less than Two-Thousand Five Hundred dollars ($2,500.00);

(3) ~~a~~A felony of the third degree if the value of the property or services secured or sought to be secured by means of the credit card ~~exceeds $500 otherwise it is a misdemeanor~~ is equal to or greater than Two Thousand Five Hundred Dollars ($2,500.00) and less than Ten Thousand Dollars ($10,000.00;

(4) A felony of the second degree if the value of the property or services secured or sought to be secured by means of the credit card is equal to or greater than Ten Thousand Dollars ($10,000.00).”

Section 53. § 46.50 of Chapter 46, Guam Code Annotated, is hereby *repealed*:

“~~**§ 46.50. Rigging of Public Exhibitions; Defined; Failure to Report; Soliciting Punishment.**~~

~~(a) A person commits a misdemeanor if, with intent to prevent a publicly exhibited contest from being conducted in accordance with the rules and usages purporting to govern it, he:~~

~~(1) confers or offers or agrees to confer any benefit upon, or threatens any injury to a participant, official or other person associated with the contest or exhibition; or~~

~~(2) tampers with any person, animal or thing.~~

~~(b) A person commits a misdemeanor if he knowingly solicits, accepts or agrees to accept any benefit the giving of which would be criminal under Subsection (a).~~

~~A person commits a petty misdemeanor if he fails to report, with reasonable promptness, a solicitation to accept any benefit or to do any tampering, the giving or doing of which would be criminal under Subsection (a).~~”

Section 54. § 46.80 of Chapter 46, Guam Code Annotated, is hereby *amended* to read:

“**§ 46.80. Impersonation; Identity Theft; Defined & Punished.**

(a) A person commits an offense when that person:

(1) impersonates another or assumes a false identity and does an act in such assumed character or false identity to obtain a benefit for oneself or another, or to injure or defraud another;

(2) pretends to be a representative of some person or organization and does an act in such pretended capacity with intent to obtain a benefit for oneself or for another, or to injure or defraud another;

(3) impersonates another, assumes a false identity or makes a false or misleading statement regarding the identity of any person, in an oral or written application for services, for the purpose of obtaining services;

(4) possesses or obtains any personal identifying information pertaining to another person, without the authorization of that person, and uses or attempts to use that information, or assists another person in using the information, for any unlawful purpose, including to:

(A) fraudulently obtain, or attempt to obtain, money, credit, goods, services, anything of value, or medical information in the name of another person;

(B) injure or defraud, or attempt to injure or defraud, another person;

(C) avoid, or attempt to avoid, the payment of debt or other legal obligation; *or*

(D) avoid, or attempt to avoid, prosecution for a crime in the name of the other person without the consent of that person.

(b) As used in this Section, *personal identifying information* means the name, address, telephone number, driver's license or driver's license number, social security card or social security number, passport or passport number, official government of Guam or other state identification card or number, mother's maiden name, demand deposit account number, savings account number, credit card or credit card number, or a debit card or debit card number, or any name or number that may be used, alone or in conjunction with any other information, to assume the identity of a person. The list in this Subsection is *not* exhaustive.

(c) An offense under this Section is:

(1) A petty misdemeanor if the benefit obtained, or the injury or fraud perpetrated on another, or the payment sought to be avoided, if any, is equal to or less than Five Hundred Dollars ($500.00).

(2) A misdemeanor if the benefit obtained, or the injury or fraud perpetrated on another, or the payment sought to be avoided, if any, is greater than

Five Hundred Dollars ($500.00) and less than Twenty-Five Hundred Dollars ($2,500.00).

(3) A felony of the third degree if the benefit obtained, or the injury or fraud perpetrated on another, or the payment sought to be avoided, if any, is equal to or greater than Twenty-Five Hundred Dollars ($2,500.00) and less than Ten Thousand Dollars ($10,000.00).

(4) a felony of the second degree if the benefit obtained, or the injury or fraud perpetrated on another, or the payment sought to be avoided, if any, is ~~at least Five Thousand Dollars ($5,000.00); otherwise, it is a felony of the third degree~~ equal to or greater than Ten Thousand Dollars ($10,000.00).

(d) A person found guilty of violating any provisions of this Section shall, in addition to any other punishment, be ordered to make restitution for financial loss sustained by a victim as a result of such violation. Financial loss may include any costs incurred by such victim in correcting the credit history of such victim, or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt or other obligation of such victim, including lost wages and attorney's fees.

(e) In any case in which a person obtains personal identifying information of another person without the authorization of that person, and uses that information to commit a crime in addition to a violation of Subsection (a), and is convicted of that crime, the court records shall reflect that the person whose identity was falsely used to commit the crime did *not* commit the crime."

Section 55. § 46.102 of Chapter 4, Guam Code Annotated, is hereby *amended* to read:

"**§ 46.102. Mortgage Fraud.**

(a) A person commits the offense of mortgage fraud *if* the person *does* any of the following with the intent to defraud:

(1) knowingly makes any material misstatement, misrepresentation, *or* omission during the mortgage lending process, intending that it be relied upon by a mortgage lender, borrower, *or* any other party to the mortgage lending process;

(2) knowingly uses *or* facilitates the use of any material misstatement misrepresentation, *or* omission, during the mortgage lending process, intending that

it be relied upon by a mortgage lender, borrower, *or* any other party to the mortgage lending process;

(3) files *or* causes to be filed with the Department of Land Management any document that the person knows contains a material misstatement, misrepresentation, *or* omission; *or*

(4) receives any proceeds *or* any compensation in connection with a mortgage loan that the person knows resulted from a violation of this Section.

(b) Notwithstanding any other administrative, civil, or criminal penalties, a person who violates Section 46.102(a) is guilty of a second degree felony."

Section 56. §46.103 of Chapter 4, Guam Code Annotated, is hereby *amended* to read:

"**§ 46.103. Classification of Offense.**

(a) Notwithstanding any other administrative, civil, *or* criminal penalties, a person who violates **§ 46.102** of this Chapter is guilty of a:

~~(1) misdemeanor when the value is *or exceeds* Three Hundred Dollars ($300) but is *less than* One Thousand Dollars ($1,000);~~

~~(2) third degree felony when the value is *or exceeds* One Thousand Dollars ($1,000) but is *less than* Five Thousand Dollars ($5,000);~~

~~(3)~~ second degree felony ~~when the value is *or exceeds* Five Thousand Dollars ($5,000);~~

~~(4) second degree felony when the object *or* purpose of the commission of an act of mortgage fraud is other than the obtaining of something of monetary value; and~~

~~(5) second degree felony when the object *or* purpose of the commission of an act of mortgage fraud is the obtaining of sensitive personal identifying information, regardless of the value.~~

~~(6) The determination of the degree of any offense under this Subsection (a) is measured by the total value of all property, money, *or* things obtained *or* sought to be obtained by a violation of §46.102 of this Chapter, *except* as provided in Subsections (a)(4) and (5).~~

(b) Each residential *or* commercial property transaction offense under this part constitutes a separate violation."

Section 57. §46.104 of Chapter 4, Guam Code Annotated, is hereby *repealed*:

"~~**§ 46.104. Mortgage Fraud Prosecutor and Investigators.**~~

~~(a) The Attorney General may employ:~~

~~(1) An attorney licensed to practice law who:~~

~~(A) has knowledge of the law related to mortgage fraud; and~~

~~(B) *if* possible, has a background *or* expertise in investigating and prosecuting mortgage fraud.~~

~~(2) At least two (2) investigators who have a background *or* expertise in investigating mortgage fraud.~~

~~(3) The attorney employed under Subsection (a) (1) has as that attorney's primary responsibility the prosecution of mortgage fraud.~~

~~(4) Each person employed under Subsection (b) *shall* have as that person's primary responsibility the investigation of mortgage fraud.~~

~~(5) clerks, interns, *or* other personnel to assist the attorney employed under Subsection (a) (1).~~ "

Section 58. §46.504 of Chapter 4, Guam Code Annotated, is hereby *amended* to read:

"**§ 46.504. Penalties.**

(a) A person who violates § 46.503 (a), (b), (c), (d) or (e) is guilty of a third degree felony~~, and upon conviction is subject to imprisonment not to exceed three (3) years or a fine not to exceed Five Thousand Dollars ($5,000), or both~~.

(b) A person who violates § 46.503 (a), (b), (c), (d) or (e) involving the transmission of more than two hundred fifty (250) commercial electronic mail messages during a twenty-four (24) hour period; two thousand five hundred (2,500) commercial electronic mail messages during any thirty (30)-day period; or twenty five thousand (25,000) commercial electronic mail messages during any one (1)- year period is guilty of a second degree felony~~, and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars ($10,000), or both~~.

(c) A person who violates § 46.503 (c) or (d) involving twenty (20) or more electronic mail accounts, or ten (10) or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from the accounts or using the domain names is guilty of a second degree felony~~, and upon conviction is subject to~~

~~imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars ($10,000), or both~~.

(d) A person who violates § 46.503 (a), (b), (c), (d) or (e) that causes a loss of One Thousand Dollars ($1,000) or more during any one (1)-year period is guilty of a third degree felony~~, and upon conviction is subject to imprisonment not to exceed three (3) years or a fine not to exceed Five Thousand Dollars ($5,000), or both~~.

(e) A person who violates § 46.503 (a), (b), (c), (d) or (e) in concert with three (3) or more other persons as the leader or organizer of the action that constitutes the violation is guilty of a second degree felony~~, and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars ($10,000), or both~~.

(f) A person who violates § 46.503 (a), (b), (c), (d) or (e) in furtherance of a felony, or who has previously been convicted of an offense under the laws of Guam, another state, or under any federal law involving the transmission of multiple commercial electronic mail messages is guilty of a second degree felony~~, and upon conviction is subject to imprisonment not to exceed ten (10) years or a fine not to exceed Twenty Five Thousand Dollars ($25,000), or both~~.

(g) A person who violates § 46.503 (f) or (g) is guilty of a misdemeanor ~~felony, and upon conviction is subject to imprisonment not to exceed one (1) year or a fine not to exceed Five Thousand Dollars ($1,000), or both~~."

Section 59. §52.10 of Chapter 52, Guam Code Annotated, is hereby *amended* to read:

"**§ 52.10. Definitions.**

As used in this Chapter:

~~(a) *official function* and *public servant* have the meanings provided for those terms by § 49.10.~~

(~~b~~a) *material statement* means a statement which affected or could have affected the course or outcome of a proceeding, regardless of its admissibility under rules of evidence.

(b) *official function* means the decision, opinion, recommendation, vote or other exercise of discretion or performance of duty of a public servant in a lawful or unlawful manner.

(c) *official proceeding* means a proceeding before any court, body, agency, public servant or other person authorized by law to conduct such proceeding and to administer an oath or cause it to be administered, including any referee, hearing officer, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding.

~~(d) *public record* means any record, document, thing belonging to, or received or kept by the Government of Guam or any governmental instrumentality within the Territory.~~

(d) *public servant* means any officer, member, or employee of the legislative, executive, or judicial branches of Guam or of any governmental instrumentality within Guam, any juror, any persons exercising the functions of any such position, or any referee, arbitrator, hearing officer, or other person authorized by law to hear or determine any question or controversy. It includes a person who has been elected, appointed or designated to become a public servant, and, in the case of a juror, a person who has been drawn, empaneled, or designated to attend as a prospective grand or petit juror.

(e) *statement* means any ~~non-trivial~~ representation, but includes a representation of opinion, belief or other state of mind ~~is a statement~~ only if it clearly relates to a state of mind apart from or in addition to the facts which it otherwise represents.

(f) *statement under oath* means

(1) a statement made pursuant to a swearing, an affirmation, or any other mode authorized by law of attesting to the truth of that which is stated; and

(2) a statement made on a form bearing notice, authorized by law, to the effect that false statements made therein are punishable.

~~(3) testimony means oral or written statements, documents or any other material which may be offered by a witness in an official proceeding.~~

(g) *testimony* means oral or written statements, documents or any other material which may be offered by a witness in an official proceeding."

Section 60. § 52.30 of Chapter 52, Guam Code Annotated, is hereby *amended* to read:

"**§ 52.30. Unsworn Falsifications; Defined & Punished.**

A person is guilty of a misdemeanor if, with intent to mislead a public servant in performing his official function, he makes, submits or uses:

(a) any ~~written~~ false statement, in written or electronic format, ~~of his own~~ which he does not then believe to be true; or

(b) any physical object, exhibit, writing or drawing which he knows to be either false or not what it purports to be in the circumstances in which it is made, submitted or used."

Section 61. § 52.55 of Chapter 52, Guam Code Annotated, is hereby *amended* to read:

"**§ 52.55. Falsifying Evidence; Defined & Punished.**

A person is guilty of a ~~felony of the third degree~~ misdemeanor if, believing that an official proceeding has been or is about to be instituted, he prepares, offers in evidence or uses any record, document or thing in any form, including written or electronic format, knowing it to be false and with intent to mislead a public servant who is or may be engaged in the proceeding."

Section 62. § 52.60 of Chapter 52, Guam Code Annotated, is hereby *amended* to read:

"**§ 52.60. Destroying Evidence; Defined & Punished.**

A person is guilty of a misdemeanor if, believing that an official proceeding has been or is about to be instituted, he destroys, conceals or removes any record, document or thing in any form, including written or electronic format, with intent to impair its availability in the proceeding."

Section 63. § 55.10 of Chapter 55, Guam Code Annotated, is hereby *amended* to read as follows:

"**§ 55.10. Tampering With Public Records; Defined & Punished.**

(a) Public record means any record, document or thing in any form, including written or electronic format, belonging to, or received or kept by, the government for information or record, or required by law to be kept by others for information of the government.

~~(a)~~(b) A person commits ~~an~~ the offense of tampering with public records if he:

(1) knowingly makes a false entry in, or false alteration of a public record ~~any record, document or thing belonging to, or received or kept by, the~~

~~government for information or record, or required by law to be kept by others for information of the government~~;

(2) makes, presents or uses any record, document or thing knowing it to be false, and with intent that it be taken as a genuine part of information or records referred to in ~~Paragraph (1)~~ Subsection (a); or

(3) intentionally and unlawfully destroys, conceals, removes or otherwise impairs the verity or availability of a public record ~~any such record, document or thing~~.

~~(b)~~(c) An offense under this Section is a misdemeanor unless the defendant's intent is to defraud or injure anyone, in which case the offense is a felony of the third degree."

Section 64. § 55.15 of Chapter 55, Guam Code Annotated, is hereby *amended* to read:

"**§ 55.15. Hindering Apprehension or Prosecution; Defined & Punished.**

(a) A person is guilty of the offense of hindering apprehension or prosecution if, with intent to hinder, prevent or delay the discovery, apprehension, prosecution, conviction or punishment of another person for the commission of an offense, he:

(1) harbors or conceals the other person;

(2) provides or aids in providing a weapon, transportation, disguise or other means of avoiding discovery or apprehension;

(3) conceals, alters or destroys ~~and~~ any physical evidence that might aid in the discovery, apprehension or conviction of such person;

(4) warns such person of impending discovery or apprehension, except that this Paragraph does not apply to a warning given in connection with an effort to bring another into compliance with law;

(5) obstructs by force, intimidation or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of such person; or

(6) aids such person to safeguard the proceeds of or to profit from such offense.

(b) Hindering apprehension or prosecution is a felony of the third degree if the defendant knows that the charge made or liable to be made against the other person is a felony of the first or second degree. Otherwise the offense is a misdemeanor.'

Section 65. § 55.20 of Chapter 55, Guam Code Annotated, is hereby *amended* to read:

"**§ 55.20. False Alarms; Defined & Punished.**

(a) A person is guilty of a misdemeanor when, with knowledge of its falsity, he causes a false alarm of fire or other emergency to be transmitted to any organization that responds to emergencies involving danger to life or property.

(b) A person is guilty of a misdemeanor when, with knowledge of its falsity, he initiates or circulates a false alarm of fire or other emergency knowing that the alarm is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconvenience or alarm.

(c) A person is guilty of a felony of the third degree if the false alarm involves a report or warning of an impending bombing, hostage situation, person armed with a deadly weapon as defined by 9 GCA § 16.10, or any other incident that elicits an immediate or heightened response by law enforcement or emergency services."

Section 66. § 55.25 of Chapter 55, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 55.25. Making False Reports; Defined & Punished.**

(a) A person commits a ~~misdemeanor~~ felony of the third degree who~~: (a)~~ knowingly gives false information to any ~~law enforcement~~ peace officer with intent to induce such officer to believe that another person has committed an offense~~;~~.

(b) A person commits a misdemeanor who:

(1) reports to ~~law enforcement authorities~~ any peace officer an offense or other incident within their concern knowing that it did not occur, or

~~(c)~~(2) makes a report which purports to furnish ~~law enforcement authorities~~ any peace officer with information relating to an offense or incident when he knows that he has no such information."

Section 67. § 55.30 of Chapter 55, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 55.30. Impersonating a Public ~~Officer~~Servant or Peace Officer; Defined & Punished.**

(a) A person commits a misdemeanor if he falsely pretends to hold a position in the public service with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.

(b) A person commits a felony of the third degree if he falsely pretends to hold a position as a peace officer or member or employee or agent of any organization or association of peace officers with purpose to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense."

Section 68. § 55.35 of Chapter 55, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 55.35. Resisting Arrest of Self or Others; Defined & Punished.**

A person is guilty of a misdemeanor when, with intent to prevent or delay the arrest of himself of another person by one whom he knows or reasonably should know to be a peace officer acting in an official capacity, he prevents or delays that arrest by the use or threat of force or by physical obstruction. For purposes of this Section, a peace officer shall include apprehending officers designated under Article 2 of 10 GCA Chapter 51, as well as peace officers as defined under ~~9 GCA § 1.70~~ 8 GCA § 5.55."

Section 69. § 55.40 of Chapter 55, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 55.40. Disarming of a Peace Officer; Defined & Punished.**

(a) A person commits the ~~crime~~ offense of disarming a peace officer, as defined by 17 GCA § 51101 if such person intentionally:

(1) removes, or attempts to remove, a firearm, deadly weapon, or less-lethal weapon, including any blunt impact, chemical, or conducted energy device, used in the performance of his or her official duties from the person of a peace officer while said officer is acting within the scope of his or her official duties; or

(2) deprives, or attempts to deprive, a peace officer of said officer's use of a firearm, deadly weapon, or any other equipment described in Subsection (a)(1) of this Section while the officer is acting within the scope of his or her official duties.

(b) The provisions of this Section *shall not* apply when:

(1) the defendant does not know or could not reasonably have known that the person he or she disarmed was a peace officer; or

(2) the peace officer was engaged in an incident involving felonious conduct by the peace officer at the time the defendant disarmed said officer.

(c) An offense under this Section is a felony of the third degree, unless the defendant's intent is to injure anyone, in which case the offense is a felony of the second degree."

Section 70. § 55.50 of Chapter 55, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 55.50. Damaging, Stealing or Receiving Stolen Government Generators, Telephones, or Emergency or Utility Equipment.**

A person commits a felony in the second degree if he intentionally damages or steals any generator, power pole, power line, telephone, telephone line, telephone facility, water meter, or other emergency or utility equipment or vehicle owned or installed by the government of Guam, its agencies or instrumentalities."

Section 71. §55.60 of Chapter 55, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 55.60. Public Water, Unlawful Use During Period of Emergency.**

(a) Upon the declaration by the *I Maga'hågan/Maga'låhen Guåhan* of a state of emergency as the result of a disaster that threatens the public water supply, it shall be a petty misdemeanor for any person to use water supplied by the ~~Public Utility Agency of Guam~~ Guam Waterworks Authority for any unauthorized use.

(b) During a state of emergency public water is authorized to be used for purposes of public health, safety and welfare. Any use of the public water during a state of emergency for a use not pertaining to public health, safety and welfare shall not be authorized. Such unauthorized uses shall include, but not be limited to, washing motor vehicles, windows, streets, sidewalks and buildings or irrigating or watering ornamental plants, shrubs, flower, lawns or golf courses.

(c) In addition to any other penalty imposed by the court upon conviction under this section, a conviction arising from unauthorized use of water for a business or

commercial purpose shall be punished by a fine of not less than One Thousand Dollars ($1,000) nor more than Twenty-Five Thousand Dollars ($25,000).

(d) No state of emergency proclaimed by the *I Maga'hågan/Maga'låhen Guåhan* shall be for a period of more than fifteen (15) days. *I Maga'hågan/Maga'låhen Guåhan* may proclaim successive states of emergency if he deems such proclamation to be in the public interest."

Section 72. § 70.15 of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.15. Definitions.**

For the purposes of §§ 70.10 through 70.85 of this Article:

(a) *Animal* means any nonhuman mammal, bird, reptile, amphibian, or fish, and is inclusive of, but not limited to, livestock and domestic animals.

(b) *Caregiving agency* means an animal shelter, humane society, or other animal care agency that has as its principal purpose the humane treatment of animals, and that has temporary custody of an animal after the animal has been seized.

(c) *Domestic animal* means any animal, other than livestock, that is owned by a person or in a person's possession.

(d) *Good animal husbandry* includes, but is not limited to, the dehorning of cattle, the docking of horses, sheep or swine, and the castration or neutering of livestock, or the ear cropping and tail docking of dogs, according to accepted practices of veterinary medicine or animal husbandry.

(e) *Guardian* means a person who has possession, title, ownership interest, or other legal interest in an animal.

(f) *Livestock* means cattle, carabao, swine, deer, sheep, goats, equine, and poultry raised for labor, food, or other purposes.

(g) *Minimum care* means care reasonably sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the guardian, includes, but is not limited to, the following requirements:

(1) open or adequate access to food of reasonable quantity and quality to allow for normal growth or maintenance of body weight;

(2) open or adequate access to potable water of reasonable quality and quantity to satisfy the animal's needs;

(3) access to a structure reasonably sufficient to protect the animal from wind, rain, sun, or other environmental or weather conditions;

(4) veterinary and other care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect, or disease;

(5) for a domestic animal, continuous access to an area:

(A) with reasonably adequate space for exercise necessary for the health of the animal;

(B) with air temperature reasonably suitable for the health of the domestic animal;

(C) with adequate ventilation;

(D) with regular diurnal lighting cycles of either natural or artificial light; and

(E) kept reasonably clean and free from excess waste or other contaminants that could affect the health of the animal(s).

(h) Officer means a member of the Guam Police Department, a Mayor of Guam, an Animal Control Officer, a Conservation Officer, or any other person authorized by law. ~~by the Chief of the Guam Police Department or by the Director of the Department of Agriculture.~~

(i) *Person* means an individual, corporation, trust, partnership, association, or any other legal entity.

(j) Physical injury means physical trauma, impairment of condition, or pain or illness produced by violence or by a thermal or chemical agent, and includes~~, but is not limited to, starvation, dehydration, hypothermia, hyperthermia, muscle atrophy, restriction of blood flow to a limb or organ, mange or other skin disease, or parasitic infestation~~.

(k) *Physical trauma* means fractures, cuts, punctures, bruises, burns, or other wounds.

(l) *Possession* means to have physical custody or to exercise dominion with intent of ownership or control over an animal.

(m) *Serious physical injury* means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of a limb, body part, or bodily organ.

(n) *Torture* means an action taken with the intent of inflicting or prolonging pain or suffering.

(o) *Suffering* means fear, agitation, severe depression or stress, or other forms of severe emotional or mental distress."

Section 73. § 70.20 of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.20. Animal Neglect (Violation).**

(a) A person commits the offense of Animal Neglect if, except as otherwise authorized by § 70.65 of this Article, the person (1) intentionally or~~,~~ knowingly~~, or recklessly~~ fails to provide minimum care for an animal in the person's possession~~,~~ or (2) recklessly or with criminal negligence causes physical injury to an animal in the person's possession.

(b) Animal Neglect ~~is an offense punishable by a fine of not more than Five Hundred Dollars ($500) per offense~~ a violation.

(c) Each act or omission in violation of Subsection (a) of this Section shall constitute a separate ~~offense~~ violation."

Section 74. § 70.25 of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.25. Animal Abuse.**

(a) A person commits the crime of Animal Abuse if, except as otherwise authorized by § 70.65 of this Article, the person intentionally~~,~~ or knowingly~~, recklessly, or with criminal negligence~~:

(1) causes physical injury to an animal;

(2) causes serious physical injury to an animal; or

(3) causes the death of an animal.

(b) Animal Abuse under Subsection (a)(1) of this Section is a misdemeanor. Animal Abuse under Subsection (a)(2) or (a)(3) of this Section is a third degree felony.

(c) Each act or omission in violation of Subsection (a) of this Section shall constitute a separate offense."

Section 75. § 70.35 of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.35. Animal Fighting.**

(a) No person shall cause, sponsor, aid, abet, arrange, hold, or encourage any animal to fight, menace, or injure another animal for the purpose of sport, amusement, or pecuniary gain. ~~This Section does not apply to cockfighting that is authorized by law.~~

(b) For the purposes of this Section, a person encourages an animal to fight, menace or injure another animal for the purpose of sport, amusement, or pecuniary gain, if the person:

(1) is knowingly present at or wagers on such an occurrence of fighting, menacing, or injuring for the purpose of sport, amusement, or pecuniary gain;

(2) owns, trains, transports, possesses, has custody or control of, breeds, or equips an animal with the intent that such animal will be engaged in such an occurrence of fighting, menacing, or injuring for the purpose of sport, amusement, or pecuniary gain;

(3) knowingly allows any such occurrence of fighting, menacing, or injuring for the purpose of sport, amusement, or pecuniary gain to occur on any property owned or controlled by the person;

(4) knowingly allows any animal to be used for such an occurrence of fighting, menacing, or injuring for the purpose of sport, amusement, or pecuniary gain to be kept, boarded, housed, or trained on, or transported in, any property owned or controlled by the person;

(5) knowingly advertises or uses any means of communication for the purpose of promoting such an occurrence of fighting, menacing, or injuring for the purpose of sport, amusement, or pecuniary gain; or

(6) knowingly possesses, owns, buys, sells, transfers, or manufactures any animal used for fighting, menacing, or injuring for the purpose of sport,

amusement, or pecuniary gain; or any device intended to train or enhance the animal's fighting, menacing or injuring ability for the purpose of sport, amusement, or pecuniary gain.

(c) Any violation of Subsection (a) of this Section shall constitute Animal Fighting, which is a third degree felony.

(d) ~~Notwithstanding any other provision of law, the penalty for a violation of Subsection (a) of this Section shall be confinement in a correctional facility in accordance with Article 2 of 9 GCA Chapter 80 and a fine of not less than Five Thousand Dollars ($5,000) and no more than Fifteen Thousand Dollars ($15,000), or both, per violation. Additionally,~~ a Any person convicted of any violation of this Section may be subject to seizure of any personal property, including vehicles, and real property at which the animal fight was staged.

(e) Nothing in this Section shall constitute a prohibition or ban on the possession, lawful importation/exportation, breeding, or selling of any breed of dog.

(f) Veterinarians and/or physicians and/or health professionals are required to report suspected animal fighting incidents, excluding cockfighting as authorized by law, that come to their attention through the provision of medical services to an animal to the Guam Police Department within five (5) days of learning of animal fighting incidents. Failure to do so shall result in potential loss of licensure if deemed appropriate by the appropriate licensure agencies. Any veterinarians, physicians, or health professionals making a report under this Subsection shall be immune from any civil or criminal liability by reason of making the report, unless the report was made in bad faith."

Section 76. § 70.50 of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.50. Animal Abandonment.**

(a) A person commits the offense of Animal Abandonment if the person intentionally, knowingly, or recklessly leaves a domestic animal at a location without providing for the animal's minimum care as defined in § 70.10.1(g) of this Article.

(b) Animal Abandonment is a violation ~~that shall be subject to a fine of not more than Five Hundred Dollars ($500).~~

(c) Each act in violation of Subsection (a) of this Section shall constitute a separate offense."

Section 77. § 70.55 of Chapter 70, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 70.55. Failure of a Motorist to Render Aid to an Injured Animal.**~~

~~(a) A person who, while operating a motor vehicle, knowingly injures or kills a cat, dog, or livestock, excluding chickens, shall stop and render such assistance as may be possible and safe to provide, and shall immediately report such injury or death to the animal's owner. In the event the owner cannot be ascertained and located, or it is unsafe to make contact with the animal's owner, the operator of the motor vehicle shall immediately report the accident and location to a peace officer or animal control officer.~~

~~(b) A violation of Subsection (a) of this Section shall be punishable by a fine of not more than Three Hundred Dollars ($300) per offense.~~"

Section 78. § 70.60(a) of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.60. Leavng Animals Unattended in Motor Vehicles; Penalty; Authority of Officers.**

(a) For the purposes of this Section:

(1) *Vehicle* means a car, truck, camper, trailer, or other form of transportation in which an animal can be transported.

(2) *Extreme temperature* means an extremely cold or high temperature, inside ~~or outside~~ of a vehicle, that could endanger an animal's health, safety, or well-being."

Section 79. §70.65(g) of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.65. Defenses; Exceptions.**

(g) Sections 70.10 to 70.85 of this Article shall not apply to:

(1) the proper shooting or taking of game in such manner and at such times as is allowed or provided by the laws of Guam;

~~(2) cockfighting in a manner and at such times and places as are authorized by law;~~

~~(3)~~ (2) the proper killing of animals used for food~~, except for dogs and cats, in accordance~~ with the law;

~~(4)~~ (3) the proper disinfestation of rodents and brown tree snakes;

~~(5)~~ (4) animals properly used for education or research purposes by, or under the oversight of, the Guam Community College or the University of Guam; provided, that proper Institutional Review Board procedures and all applicable local and federal laws are followed;

~~(6)~~ (5) euthanasia as properly conducted by a licensed veterinarian, or individual authorized by § 70.70 of this Article, and done in accordance with local law and generally accepted industry practice;

~~(7)~~ (6) the proper disinfestation of animals deemed a disease vector and threat to public health by the Department of Public and Social Services; provided, that disinfestation is done in accordance with established procedures approved by said Department;

~~(8)~~ (7) the proper disinfestation of species deemed invasive to Guam by the Guam Invasive Species Council; provided, that disinfestation is done in accordance with established procedures approved by said Council.

(A) Subsection ~~(g)(8)~~ (g)(7) of this Section shall not pertain to cats or dogs, except as authorized by the Director of the Department of Agriculture, and such disinfestation efforts are done in accordance with accepted practices of veterinary medicine and procedures approved by the Council."

Section 80. §70.80(b) of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.80. Sentencing Provisions.**

(b) Evaluation & Treatment.

(1) In addition to any other sentence it may impose, the court ~~shall~~ may order the defendant convicted of a felony crime under this Article to undergo a psychiatric, psychological, or mental health evaluation, and if warranted by the condition of the defendant, ~~shall~~ may order the defendant to undergo appropriate care or treatment.

~~(3)~~ (2) Treatment may include, but is not limited to, counseling and humane education classes.

~~(4)~~ (3) Treatment may be conducted in-person or online.

~~(5)~~ (4) All costs of the evaluation, care and treatment shall be borne by the defendant. However, if the court determines that the defendant is indigent, the government of Guam may provide access to government funded or government contracted service providers, if available."

Section 81. § 70.320(c) of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.320. Intoxication of Persons Under the Age of Twenty-One.**

(c) Any person who violates this Section:

(1) *shall* be guilty of a misdemeanor. ~~punished by a fine of not more than Two Thousand Dollars ($2,000) or by imprisonment for not more than one (1) year or both;~~ and

(2) in addition to the sentence referenced in Subsection (c)(1) the court *may* require the violator to make restitution for any damages to property or a person caused by a violation of this § 70.53, and *may* require participation in volunteer service to a community service agency."

Section 82. § 70.330 of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.330. Possession of Cannabis by Persons Under Twenty-one (21) Years of Age.**

Any person under twenty-one (21) years of age possessing cannabis *shall* be guilty of a ~~petty misdemeanor~~ violation and subject to a One Hundred Dollar ($100.00) fine ~~and suspension of their driver's license for twelve (12) months for the first offense and a Two Hundred Fifty Dollar ($250.00) fine and suspension of their driver's license for an additional twelve (12) months for each subsequent possession. Suspension of one's driver's license *may* be waived by the court and replaced with one hundred (100) hours of community service for each possession if the guilty individual can demonstrate financial or personal hardship resulting from the loss of his or her driving privileges. The violation~~

~~of this Section and the resulting penalties prescribed herein are in addition to other violations of public law related to cannabis possession.~~"

Section 83. § 70.420 of Chapter 70, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 70.420. Jet Ski Operation, Tumon Bay and Pago Bay.**

No person shall operate a jet ski or water ski within the reef along Tumon Bay and Pago Bay ~~except that a jet ski may be operated in the channel to enter or exit Tumon Bay and Pago Bay~~. This prohibition shall not apply to the use of jet ski for emergency rescue or for law enforcement purposes. Any person who violates this Section is guilty of a misdemeanor."

Section 84. § 70.430 of , Chapter 70, Title 9Guam Code Annotated, is hereby *repealed*:

"~~**§ 70.430. Unlawful Use of Telephone; Defined & Punished.**~~

~~(a) A person is guilty of unlawfully using a telephone when he:~~

~~(1) refuses to relinquish immediately a party line or public telephone when informed that the party line or public telephone is needed for an emergency call to the Department of Public Safety, Armed Services Police, Air Sea Rescue or for medical aid or ambulance service; or~~

~~(2) secures the use of a party line or public telephone by falsely stating that such line or telephone is needed for an emergency.~~

~~(b) As used in this Section, party line means a subscriber's telephone circuit consisting of two (2) or more named telephone stations connected therewith, each station having a distinctive ring or telephone number.~~

~~(c) As used in this Section, public telephone means a telephone available for public use.~~

~~(d) As used in this Section, emergency means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential.~~

~~(e) Unlawfully using a telephone, as defined in Paragraph (1) of Subsection (a) of this Section, is a misdemeanor. Otherwise, it is a violation.~~"

Section 85. § 70.450 of Chapter 70, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 70.450. Blacklisting Employees.**~~

~~(a) If any person, agent, company, corporation, public official, or governmental agency, after having discharged any employee from his or its service, shall prevent or attempt to prevent by word or writing of any kind of untrue statement, or, in any manner, conspires or contrives, by correspondence or otherwise by means of an untrue statement, to prevent, such discharged employee from obtaining employment with any other person, company, corporation or governmental agency, such person, agent, corporation or public official is guilty of a petty misdemeanor and shall be punished by a fine not exceeding Five Hundred Dollars ($500.00) for each violation; and such person, agent, company, corporation, elected or appointed public official, or governmental agency shall be liable in civil/penal damages to such discharged person, to be recovered by civil action. This Section shall not be construed as prohibiting any person or agent of any company or corporation from furnishing in writing, upon request, to any other person, company or corporation to whom such discharged person or employee has applied for employment, a truthful statement of the reason for such discharge.~~

~~(b) An employer, employee or other person, by threats of injury, intimidation or force, alone or in combination with others, may not prevent a person from entering into, continuing in or leaving the employment of any person, firm, governmental office/agency or corporation. Any person who violates this paragraph is guilty of a misdemeanor and shall be punished by a fine not exceeding One Thousand Dollars ($1,000.00) for each violation; and such person, agent, company, corporation, elected or appointed public official, governmental agency shall be liable in civil/penal damages to such discharged person, to be recovered by civil action.~~

~~(c) An employer who in good faith provides information requested by a prospective employer about the reason for termination of a former employee or about the job performance, professional conduct or evaluation of a current or former employee is immune from civil liability for the disclosure or the consequences of providing the information. There is a presumption of good faith if either:~~

~~(1) The employer employs less than one hundred (100) employees and provides only the information authorized by this Subsection.~~

~~(2) The employer employs at least one hundred (100) employees and has a regular practice in Guam of providing information requested by a prospective~~

~~employer about the reason for termination of a former employee or about the job performance, professional conduct or evaluation of a current or former employee.~~

~~(d) The presumption of good faith under Subsection (c) of this Section is rebuttable by showing that the employer disclosed the information with actual malice or with intent to mislead. This Subsection and Subsection (c) of this Section do not alter any privileges that exist under common law. For the purposes of this Subsection, "actual malice" means knowledge that the information was false or was provided with reckless disregard of its truth or falsity.~~

~~(e) Communications concerning employees or prospective employees that are made by an employer or prospective employer, or by a labor organization, to a government body or agency and that are required by law or that are furnished pursuant to written rules or policies of the government body or agency are privileged.~~

~~(f) An employer, including the government of Guam and its agencies, a labor organization or an individual is not civilly liable for privileged communications made pursuant to Subsection (e) of this Section.~~

~~(g) In response to a request by another bank, savings and loan association, credit union, escrow agent, commercial mortgage banker, mortgage banker or mortgage broker it is not unlawful for a bank, a savings and loan association, a credit union, an escrow agent, a commercial mortgage banker, a mortgage banker or a mortgage broker to provide a written employment reference that advises of the applicant's involvement in any theft, embezzlement, misappropriation or other defalcation that has been reported to federal authorities pursuant to federal banking guidelines or reported to the department of financial institutions. In order for the immunity provided in Subsection (h) of this Section to apply, a copy of the written employment reference must be sent by the institution providing the reference to the last known address of the applicant in question.~~

~~(h) No bank, savings and loan association, credit union, escrow agent, commercial mortgage banker, mortgage banker or mortgage broker shall be civilly liable for providing an employment reference unless the information provided is false and the bank, savings and loan association, credit union, escrow agent, commercial mortgage banker, mortgage banker or mortgage broker providing the false information does so with knowledge and malice.~~

~~(i) A court shall award court costs, attorney fees and other related expenses to any party that prevails in any civil proceeding in which a violation of this Section is alleged.~~"

Section 86. Chapter 71 of Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 71.10. Title.**

This Chapter shall be known, and may be cited, as >>The Guam Gun-Free School Zone Act of 2004."

§ 71.20. Definitions.

As used in this Chapter, the following definitions shall apply:

(a) "School zone'' means an area in, or on the grounds of, a public or private school providing instruction in early childhood, kindergarten or grades 1 to 12, inclusive.

(b) "Firearm'' shall mean as defined in 10 GCA § 60100.

~~(c) "Concealed firearm'' shall mean as defined in 9 GCA § 60108(e).~~

§ 71.30. ~~Person Not Allowed to Possess Firearms~~ Possession of Firearms in a School Zone.

Any person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, as defined in ~~paragraph (a) of Subdivision~~ § 71.20(a) of this Chapter, shall be punished as specified in ~~Subdivision~~ § 71.60.

§ 71.40. Prohibition on Discharge of Firearm.

It shall be unlawful for any person to discharge, or attempt to discharge, a firearm in a school zone, as defined in ~~paragraph (a) of Subdivision~~ § 71.20(a) of this Chapter. The prohibition contained in this ~~Subdivision~~ Section does not apply to the discharge of a firearm if the firearm is discharged in an area that is designated as a shooting range at a University or College.

§ 71.50. Firearms Prohibited on University or College Property.

~~(a)~~ It shall be unlawful for any person to bring or possess a ~~loaded~~ firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college

authority. Notwithstanding § 71.80, a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this Section.

~~(b) It shall be unlawful for any person to bring or possess a firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority. Notwithstanding Section § 71.80, a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this Section.~~

§ 71.60. Punishment.

Any person who ~~violates~~ is convicted of violating § 71.30, § 71.40, or § 71.50 of this Act shall be guilty of a felony of the third degree and ~~any person who is convicted of an offense pursuant to § 71.30, § 71.40, or § 71.50~~ shall be sentenced as follows:

(a) For a first offense, the Court shall impose a sentence of imprisonment of no more than three (3) years, a fine of not less than One Thousand Dollars ($1,000.00), and mandatory community service of no less than one hundred and fifty (150) hours.

(b) In cases where the person has been convicted of felonies under any provision of this Chapter, the person shall be sentenced to a term of imprisonment which shall not be less than five (5) years and in addition, may be fined not more than Fifteen Thousand Dollars ($15,000.00). The sentence~~, if for a term of years,~~ shall include a special parole term of not less than one (1) year in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended, and probation shall not be granted. Sentence in these cases must also include mandatory community service of no less than one hundred fifty (150) hours unless the term of imprisonment is for life.

(c) The Court shall apply any minimum sentence, fine or community service specified in this Section, except in unusual cases where the interests of justice would best be served ~~by granting probation or suspending the execution or~~

~~imposition of sentence without the minimum imprisonment, fine or community service required in this Subdivision or~~ by granting probation or suspending the execution or imposition of sentence, fine or community service with conditions other than those set forth in this Section, in which case the Court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

§ 71.61. Information for Sentencing.

Except as otherwise provided in 9 GCA Chapter 80 ~~of Title 9 of the Guam Code Annotated~~, no limitation shall be placed on the information concerning the background, character and conduct of a person convicted of an offense which the Superior Court of Guam may receive and consider for the purpose of imposing an appropriate sentence under this Chapter.

~~**§ 71.70. What Constitutes a Loaded Firearm.**~~

~~For purposes of this Chapter, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.~~

§ ~~71.80~~ 71.70. Notice.

~~(a)~~ The Department of Education and other entities covered by this Chapter shall post permanent signs with large visible lettering stating at a minimum, "Warning this is a Gun-Free Zone" at the main entrances of the covered facilities within their control ~~on or before January 1, 2005~~. This Section does not require that notice be posted regarding the proscribed conduct for the purposes of prosecution of any violation of this Act.

~~(b) The Guam Police Department within sixty (60) days of the effective date of this Act shall implement a public relations campaign to inform the general public of its provisions.~~

§ ~~71.81~~ 71.80. Chapter Not Applicable ~~to Peace Officers and Military~~.

(a) This Chapter does not apply to a duly appointed peace officer as defined in 8 GCA § 5.55, ~~Article 2, Chapter 5, Title 8, Guam Code Annotated,~~ a full-time paid peace

officer of another state or the Federal government who is carrying out official duties while in Guam, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of Guam or of the United States who is engaged in the performance of his or her duties, or an armored vehicle guard engaged in the performance of his or her duties.

~~**§ 71.82. Not Applicable to Security Guards.**~~

(b) This Chapter does not apply to an on-duty security guard authorized to carry a loaded firearm, provided the security guard is an employee of an entity contracted by the school for security purposes.

~~**§ 71.83. Not Applicable to Existing Shooting Ranges.**~~

(c) This Chapter does not apply to an existing shooting range at a public or private school or university or college campus.

§ 71.90. Severability.

If any provision of this Act or its application to any person or circumstances is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable."

Section 87. Chapter 86 of Title 9, Guam Code Annotated, is hereby *repealed*:

"~~CHAPTER 86~~

~~Compensation For Damages From Criminal Activities~~

~~NOTE: This Chapter was added by P.L. 20-155:2 (Mar. 21, 1990); amended and moved by P.L. 27-138:4 (Dec. 30, 2004) to Chapter 161, Title 8, Guam Code Annotated.~~"

Section 88. Chapter 87 of Title 9, Guam Code Annotated, is hereby *repealed*:

"~~CHAPTER 87~~

Victim Notification

~~**NOTE:** This Chapter was enacted by P.L. 20-155:1 (Mar. 21, 1990) as Chapter 85. Since Chapter 85 was occupied, renumbered and codified by Compiler as Chapter 87. Repealed in its entirety by P.L. 27-138:3 (Dec. 30, 2004).~~"

Section 89. § 90.10 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.10. Definitions.**

As used in this Chapter:

(a) "Director" means the Director of Corrections.

(b) "Department" means the Department of Corrections.

(c) "Detainee" means a person temporarily committed to the custody of the Director, including but not limited to commitment due to pretrial status, federal hold, probation violation, or parole violation.

(d) "Inmate" means a person committed to the custody of the Director post-adjudication, after imposition of a sentence to a term of imprisonment.

(e) "Prisoner" means a person committed to the custody of the Director as a detainee or inmate."

Section 90. § 90.15 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**~~§ 90.15. General Duties of Department of Corrections.~~ Mission Statement.**

~~The Department shall protect the public from the destructive action of law offenders through control and rehabilitation. It shall provide staff services for the judiciary, the Parole Board, probation officers and interested agencies of the Executive Branch.~~

To promote public safety through custody and control of criminal offenders while providing a safe and humane environment for their treatment, rehabilitation, and reintegration back into the community as productive citizens."

Section 91. § 90.16 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.16. Minimum Qualifications for Department of Corrections Officers.**

(a) Notwithstanding other provisions of law to the contrary, persons appointed as Corrections Officer *shall*~~:~~ meet the qualifications for employment as a peace officer as defined by the Peace Officer Standards and Training Commission in 17 GCA § 51104 and applicable rules and regulations.

~~(1) be a resident of Guam and a U.S. citizen;~~

~~(2) be of good health and good moral character;~~

~~(3) be over the age of eighteen (18) years;~~

~~(4) be a high school graduate *or* equivalent, but the POST Commission may set higher academic qualifications for all applicants as the Commission considers necessary;~~

~~(5) submit to and pass a drug screening test, including, but *not* limited to, a urinalysis test;~~

~~(6) submit to psychological testing; and~~

~~(7) submit to a polygraph examination.~~

~~(b) No person shall be appointed as a Corrections Officer who has *not* established satisfactory evidence of qualifications by passing a physical examination, which *shall* include a physical agility test, and written examinations based upon standards relevant to the duties to be performed, which standards *shall* be established by the Director of Corrections in conjunction with the Department of Administration.~~

~~(c) No person shall be appointed as a Corrections Officer who has been convicted in any civilian or military court of a felony, a crime involving moral turpitude, a crime of domestic or family violence, or who has been administratively pardoned of any crime.~~

~~(d) No person shall be appointed as a Corrections Officer before a thorough investigation of the applicant's background and moral character is completed.~~

~~(e)~~ (b) A Corrections Officer dismissed for cause *shall* be permanently ineligible for appointment reappointment, or reemployment to any position in the Department. A Corrections Officer who resigns for the sole purpose of negating or averting a pending or anticipated disciplinary action to dismiss the Corrections Officer *shall* be ineligible for reappointment or reemployment.

~~(f) No person shall be appointed as a Corrections Officer who has *not* established satisfactory evidence of the ability to understand and work with persons with disabilities, including special needs and mental illness. Evidence of such ability *shall* be by a certificate of completion of the appropriate training as approved by the Department of Integrated Services for Individuals with Disabilities, as a condition for selection prior to appointment as a Corrections Officer. For the purpose of this Section, the term disability(ies), as is defined in the *Americans with Disabilities Act*, *shall* mean a physical or mental impairment that substantially limits one (1) or more major life activities of an individual. Incumbent uniformed officers who *do not* have a certificate of completion of~~

~~the training as required in this Act *shall*, within six (6) months following the enactment of this Act, submit to the Department of Administration such certification as required herein.~~

§ 90.16.1. Annual Corrections Officer Recruits Training Cycle.

~~(a)~~ The Department of Corrections shall conduct a corrections officer recruits training cycle for at least twenty (20) candidates per fiscal year, subject to the availability of funds.

~~(b) Each year, the Director of the Department of Corrections shall determine the total cost to conduct a recruitment and training cycle pursuant to the requirements set forth in Subsection (a) of this Section and he/she shall transmit this as part of the Department's proposed budget to *I Maga'hagan Guahan* for inclusion in the Executive Budget request that *I Maga'hagan Guahan* submits annually to *I Liheslaturan Guahan*.~~

~~(c) The Director of the Department of Corrections shall submit a report to *I Maga'hagan Guahan* and the Speaker of *I Liheslaturan Guahan* no later than June 30 of each year to present an update on the corrections officer recruits training cycle conducted during that fiscal year pursuant to the requirements set forth in this Section.~~"

Section 92. § 90.20 of Chapter 90, Title 9, Guam Code Annotated, is hereby repealed:

"**~~§ 90.20. Corrections Advisory Council Established.~~**

~~There is hereby the established Corrections Advisory Council, composed of the Chairman of the Guam Parole Board, the Chief Judge of the Superior Court, the Administrator of Social Services (Director, Public Health and Social Services) or his designee, the Principal of the Vocational & Technical High School or his representative, the United States Attorney or his representative and, in addition, one (1) representative from the business community and one (1) member of the general public, who shall be appointed by the Governor with the advice and consent of the Legislature. The Director of the Department shall be ex officio secretary of the Council and the Department shall furnish necessary logistic support. The Council shall advice the Director and the Department as to the policies and procedures to carry out the intent and purposes of this Chapter.~~"

Section 93. §90.25 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.25. General Powers and Duties of Director ~~to Establish Prisons~~.**

(a) The Director shall establish and operate correctional institutions, and other places of confinement, for inmates and detainees ~~for prisoners serving sentences of imprisonment imposed by the Courts of Guam and other authorized prisoners, and other persons placed in the custody of the Director, pursuant to the laws of Guam.~~

(b) As head of the Department, the Director shall administer the Department, and:

(1) Shall exercise and discharge the powers and duties of the Department through such divisions, or other organizational units as he may establish pursuant to this Chapter or as otherwise provided by law.

(2) May establish such divisions or other organizational units as he may determine to be necessary for the efficient and effective administration and operation of the Department. Each such division or organizational unit shall be subject to the supervision and discretion of the Director and shall have jurisdiction of such matters, exercise such powers and perform such duties as may be assigned to it by the Director or otherwise by applicable laws.

(3) May delegate authority for the performance of any of his powers or duties to any officer or employee under his direction and supervision.

(4) Shall, when the need arises to use correctional facilities to serve as overflow lock-up, keep inmates and detainees separate and apart.

(c) The Director shall have the authority to promulgate, adopt, and amend rules and regulations in accordance with the Administrative Adjudication Law (codified at Chapter 9 of Title 5, Guam Code Annotated) necessary to implement this Chapter and for the administration of the Department.

(d) The Director of the Department of Corrections must make reasonable efforts:

(1) to provide a breast pump and a sanitary room, other than a toilet stall, or a private area where a nursing mother confined at the Department of Corrections facilities can express her milk.

(2) A nursing mother confined at the Department of Corrections facilities may be allowed to breastfeed her child in a sanitary room, other than a toilet stall, or a private area as long as safeguards are in place, as determined by the

Director, to prevent her escape and as long as it is not a threat to the infant's and the public's safety and welfare."

Section 94. § 90.26 of Chapter 90, Title 9, Guam Code Annotated, is hereby *added* to read:

"**§ 90.26. Correctional Medical Clincs.**

There are hereby established facilities within the Department of Corrections (DOC) designated as the "Correctional Medical and Dental Clinic" and the "Correctional Behavioral Health Clinic" to address and respond to the medical, dental and mental health needs of all inmates and detainees within the prison population based on standards and procedures recognized by the National Commission on Correctional Health Care and consistent with community standards of care to further ensure the constitutional rights of inmates and detainees to proper health care.

(a) All outpatient medical and dental clinical operations at the DOC Correctional Medical Clinic shall be under the general cognizance and authority of the Guam Memorial Hospital Authority (GMHA) to ensure delivery of services including, but not limited to providing a medical director; physician and nurse practitioner services; nursing services; clinic staff; pharmaceutical services; medical records services; medical supplies; and training, to the extent necessary to satisfy this section those services set forth in a cooperative agreement between GMHA and DOC.

(b) All outpatient mental health services operations at the DOC Correctional Behavioral Health Clinic shall be under the general cognizance and authority of Guam Behavioral Health & Wellness Center (GBHWC) to ensure delivery of services including, but not limited to providing a mental health director, psychiatric physician and clinical psychology services, nursing services; clinic staff; records services; supplies; and training, to the extent necessary to satisfy this section those services set forth in a cooperative agreement between GBHWC and DOC.

(c) The DOC, GMHA, and GBHWC shall annually submit sufficient budgetary justification and appropriation requests to fund all operations pursuant to the continuing cooperative agreements between the DOC and GMHA.

(d) DOC and GBHWC. GMHA and GBHWC shall deliver health care services at the Correctional Medical Clinic and Correctional Behavioral Health Clinic, respectively, at the most economical costs, implement best practices, and promote financial accountability to DOC.

(1) GMHA and GBHWC shall provide written reports to DOC one month after each fiscal quarter detailing services rendered and supplies used during the previous quarter, including applicable costs and administrative fees. The system for payment by DOC to GMHA and GBHWC shall be established with the Governor's Office, the Bureau of Budget Management & Research (BBMR), and the Department of Administration (DOA) to ensure GMHA and GBHWC has a regular commitment of funding secured solely and exclusively for paying GMHA and GBHWC on time for health care services, medical supplies, and for the timely payment to pharmaceutical vendors to prevent any future risks of credit hold.

(2) Allotments shall be made to GMHA and GBHWC in advance of services rendered and medical and pharmaceutical supplies, based on the previous fiscal year budget, and adjusted for any under-utilization or over-utilization from the previous fiscal year. Quarterly allotments shall be released on October 1, January 1, April 1, and July 1, of each fiscal year.

(3) GMHA and GBHWC shall submit to DOC expenditures statements post fiscal year that certify funds were spent in accordance with actual allocations."

Section 95. §90.27 of Chapter 90, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 90.27. Prison May Serve as Overflow Lock-Up.**~~

~~In the event that a court of competent jurisdiction finds that a facility used to detain persons charged with a crime is inadequate, the court may direct the Director to hold such persons in his custody. Such person shall be detained in an area separate and apart from those persons who have been convicted of a crime and are serving sentences of imprisonment.~~"

Section 96. § 90.30 of Chapter 90, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 90.30. Rules, Regulations & Disciplinary Rules Authorized.**~~

~~The Director subject to the approval of the Governor by Executive Order, is authorized to make rules and regulations for the administration of correctional institutions and other places of confinement, including, but not limited to, necessary disciplinary measures for inmates thereof and for their treatment, care, labor, rehabilitation and reformation.~~"

Section 97. 90.35 of Chapter 90, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 90.35. Director to Control Organization of DOC; Appoint Staff.**~~

~~(a) The Director may establish such divisions or other organizational units as he may determine to be necessary for the efficient and effective administration and operation of the Department. Each such division or organizational unit shall be subject to the supervision and discretion of the Director and shall have jurisdiction of such matters, exercise such powers and perform such duties as may be assigned to it by the Director or otherwise by applicable laws.~~

~~(b) The Director may appoint and rename officers and other employees within the Department in accordance with the provisions of Title 4 of the Guam Code Annotated.~~

~~(c) The Director may delegate authority for the performance of any of his powers or duties to any officer or employee under his direction and supervision.~~"

Section 98. § 90.40 of Chapter 90, Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**§ 90.40. General Duties of Director of Corrections.**~~

~~As head of the Department, the Director:~~

~~(a) Shall administer the Department.~~

~~(b) Shall exercise and discharge the powers and duties of the Department through such divisions, or other organizational units as he may establish pursuant to this Chapter or as otherwise provided by law.~~

~~(c) May formulate and adopt rules necessary or proper for the internal administration of the Department, subject to the approval of the Governor.~~"

Section 99. § 90.41 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.41.** ~~**Inmate**~~ **Commissary.**

~~Notwithstanding any other provision of law, the~~ The Department ~~of Corrections (DOC)~~ is authorized to operate or outsource the operation of ~~an inmate~~ a commissary within the confines of DOC. This Section *shall* exempt DOC from the provisions of 21 GCA § 60112 in order to provide DOC the authority to lease property to an approved vendor to operate the commissary facility without first seeking legislative approval."

Section 100. § 90.42 and § 90.43 of Chapter 90, Title 9, Guam Code Annotated are hereby *consolidated* and *amended* to read:

"**§ 90.42. Operation of ~~Inmate~~ Commissary.**

(a) The Director ~~of DOC~~ may operate, or contract with another person or entity to operate, a commissary for the use of the inmates and detainees confined at DOC.

(b) The Director may enter into a contract for the lease of space to accommodate the commissary. ~~In accordance with 5 GCA Chapter 5 (Guam Procurement Law), the Department of Corrections is authorized to enter into a contract for the lease of up to three hundred (300) square feet of its property for an inmate commissary. Procurement of said contract *shall* be done by a DOC staff member who is qualified under 5 GCA § 5141.~~

~~(c) Funds directed as a result of revenue received from the contract under Subsection (b) of this Section *shall* be subject to an annual audit by the Office of Public Accountability.~~

~~(d) When entering into a contract under Subsection (a) of this Section, the Director or the Director's designee *shall* consider the following:~~

~~(1) whether the contract should provide for a fixed rate of return combined with a sales growth incentive;~~

~~(2) the menu items offered by the provider and the price of those items;~~

~~(3) the value, as measured by a best value standard, and benefits to inmates and the commissary, as offered by the provider;~~

~~(4) safety and security procedures to be performed by the provider; and~~

~~(5) the performance record of the provider, including service availability, reliability, and efficiency.~~

~~(e) The Department of Corrections *shall* establish policy and procedures for the administration of this Section. Such policy and procedures *shall* be transmitted to *I Liheslaturan Guåhan* prior to operation of the inmate commissary.~~

~~(f) The Department of Corrections *shall* establish rules and regulations for the administration of this Section prior to operation~~ of the inmate commissary.

~~§ 90.43. Corrections Commissary Fund.~~

(c) Corrections Commissary Fund. There is hereby established a Fund to be known as the Corrections Commissary Fund (CCF), which *shall* be maintained separate and apart from other funds of the government of Guam. All funds collected by the government of Guam from the operations of a commissary *shall* be deposited in the CCF; and, interest and investment earnings *shall* be credited to the assets of the CCF and *shall* become part of the CCF~~. Any remaining balance in the CCF at the end of the fiscal year *shall* be carried over to the next fiscal year.~~

(d) ~~Inmate Improvement.~~ The Director may use ~~up to fifty percent (50%) of~~ the net proceeds of the CCF for inmate and detainee improvement. ~~to develop or enhance inmate welfare; and the other fifty percent (50%) *shall* be used for rehabilitation programs within the Department of Corrections.~~"

Section 101. §90.44 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.44. ~~Inmate~~ Phone Access Act of 2021.**

(a) There is hereby created, within the Department of Corrections, a revolving fund called the "Inmate Phone Access Fund" (Fund), which shall be established by the Department of Administration in accordance with the following provisions:

(1) Notwithstanding any other provision of law, any revenue that is collected by the Government of Guam for telephone services within the Guam Department of Corrections shall be deposited into said Fund.

(2) Any revenue that is deposited into said Fund is to be used to provide no-cost telephonic services for indigent inmates or indigent detainees to contact their legal counsel.

(3) Should revenues deposited into this Fund not be adequate to provide no-cost telephonic services for indigent inmates to contact their legal counsel, the

Director of the Department of Corrections and *I Maga'hågan Guåhan* shall ensure that any indigent inmate or indigent detainee be provided with their constitutional right to consult legal counsel through no-cost telephonic service by any means that the Director or *I Maga'hågan Guåhan* sees fit.

(4) For the purposes of this Section, "indigent inmates" or "indigent detainees" shall mean those persons charged in a criminal case before the courts of Guam who are determined indigent consistent with 12 GCA § 11104.

~~(b) Notwithstanding any other provision of law, within thirty (30) days of the enactment of this Section, the Director of the Department of Corrections shall create and implement a policy where indigent inmates shall be allowed to call the Public Defender Service Corporation, the Alternate Public Defender, or their Attorney of Record, at no cost to the indigent inmate. The Director of the Department of Corrections shall submit a report to *I Liheslatura* upon the creation and implementation of said policy.~~"

Section 102. § 90.45 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.45. Authorization to Transfer ~~Prisoners~~ Inmates to Federal Correctional Institutions.**

The Director is authorized to enter into one or more contracts with the Attorney General of the United States pursuant to the authority granted to the Attorney General of the United States by Title 18, United States Code, § 5003, for the custody, care, subsistence, education, treatment and training in one or more Federal correctional institutions, of persons convicted of criminal offenses in the courts of Guam; provided, that any such contract shall provide for the reimbursement of the United States in full for all costs or other expenses incurred by the United States for such custody, care, subsistence, education, treatment and training; and provided further, that the Director shall comply with the relevant provisions of §§ 90.46 through 90.48 inclusive of this Code prior to the physical transfer of any such person to a Federal correctional institution."

Section 103. § 90.47 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.47. ~~Inmate Transfer:~~ Non-Emergency Transfers of Inmates.**

The Director ~~of Corrections~~ is authorized to transfer an inmate to a correctional institution outside of Guam in non-emergency circumstances.

§ 90.47.01. ~~Same:~~ Disciplinary Transfers of Inmates.

The Director may recommend the transfer of an inmate to an institution outside of Guam for disciplinary reasons in the following circumstances:

(a) when an inmate is alleged by an officer, employee or other inmate to have committed a violation of such institution's rules or regulations, which violation might constitute a threat to the order or discipline of the institution or to the ~~physical~~ safety of an officer, employee or any inmate; or harm to the public; or

(b) when an inmate is subsequently convicted of a violation of § 58.20 or § 58.30 of this Code~~, or of any violent crime.~~

§ 90.47.02. ~~Same:~~ Non-disciplinary Transfers of Inmates.

The Director may recommend the transfer of an inmate to an institution outside of Guam for non-disciplinary circumstances under either of the following circumstances:

(a) whenever the Director determines that, due to the physical or mental condition of an inmate, the present incarceration lacks adequate facilities for custody, care, subsistence, education, treatment or training of the inmate, and that of the inmate would be better served by transfer to an institution outside of Guam; or

(b) whenever the Director determines that due to overcrowding which impacts on the adequacy of the facility to provide for the safe custody, care, subsistence, education, treatment and training of an inmate the interest of the inmate is better served by such transfer to an institution outside Guam.

§ 90.47.03. ~~Same:~~ Procedures for Transfers of Inmates.

Whenever the Director ~~of the Department of Corrections~~ determines that an inmate be recommended for transfer to a correctional institute outside of Guam, the Director shall ~~convene a Transfer Review Committee to~~ review the basis for such recommended transfer. The Director shall ~~promulgate~~ provide ~~through Executive Order rules and regulations for the establishment of a Transfer Review Committee to include:~~

~~(a) a minimum of five (5) members to include a DOC case worker, the Attorney General or representative, a correctional officer, an inmate, a member of the clergy;~~

~~(b) provisions~~ for due notice on a recommended transfer, which shall include timely notice to the inmate and the Attorney General; and

~~(c) provisions~~ for hearing, final decision and appeal from a final decision of transfer~~;~~ .

~~(d) provisions for maintaining~~ The Director shall maintain a record of each hearing.

~~§ 90.47.04. Same: Basis of Determination.~~

~~(a) The Transfer Review Committee shall base its determination for transfer upon substantial evidence as presented on the record at hearing, and shall be final. No inmate shall be recommended for transfer while any conviction for which he was incarcerated is on appeal. Any statement made by an inmate during the course of a transfer hearing shall not be admitted in evidence against the inmate in any subsequent criminal action, except for the purpose of impeachment or in a trial for perjury, false swearing or contempt.~~

~~(b) The Administrative Adjudication Law and the Open Government Law shall not apply to any proceeding or action taken under this Section, nor shall any inmate be represented by counsel in any proceeding held pursuant to this Section.~~

~~§ 90.47.05.Same: Appeal from Determination.~~

~~Any inmate whom the Transfer Review Committee has determined is to be transferred under these provisions may appeal such determination to the Superior Court of Guam. The review of the Superior Court shall not be de novo, and shall be limited to a review of the record to determine whether the Transfer Review Committee made its determination based upon a fair and full hearing. A determination may be reversed only upon a showing that the Committee abused its discretion in applying the rules and regulations to the facts which provided the basis for the recommended transfer, and that to allow the decision to stand would result in a miscarriage of justice. Notice of filing an appeal in accordance with this Subsection does not automatically stay an inmates transfer pending appeal.~~"

Section 104. § 90.48 of Chapter 90, Title 9, Guam Code Annotated, is hereby *repealed* and *reenacted* to read:

"~~**§ 90.48. Nursing Mothers Accommodations.**~~

~~(a) The Director of the Department of Corrections must make reasonable efforts to provide a breast pump and a sanitary room, other than a toilet stall, or a private area where a nursing mother confined at the Department of Corrections facilities can express her milk.~~

~~(b) A nursing mother confined at the Department of Corrections facilities may be allowed to breastfeed her child in a sanitary room, other than a toilet stall, or a private area as long as safeguards are in place, as determined by the Director, to prevent her escape and as long as it is *not* a threat to the infant's and the public's safety and welfare.~~

§ 90.48. Transfers Pursuant to Treaty.

When a treaty is in effect between the United States and a foreign country that provides for the transfer of convicted offenders who are citizens or nationals of the foreign country, upon the recommendation of the Attorney General of Guam, *I Maga'hågan/Maga'låhen Guåhan* (the Governor of Guam) or the Director of the Department of Corrections, if designated by *I Maga'håga/Maga'låhi Guåhan* (the Governor), on behalf of the island and subject to the terms of the treaty; may consent to the transfer of the convicted offenders who are under the jurisdiction of the Department of Corrections to the place or jurisdiction specified in the treaty. *I Maga'håga/Maga'låhi Guåhan* (the Governor) may take any other action necessary to initiate the participation of the Island of Guam in the treaty."

Section 105. § 90.49 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.49. Corrections Revolving Fund.**

There is hereby created, within the Department of Corrections, a revolving fund called the 'Corrections Revolving Fund', which shall be established by the Department of Administration in accordance with the following provisions:

(a) All funds collected from the U.S. Marshal Service, the U.S. Immigration Service and the U.S. Bureau of Prisons for housing U.S. ~~prisoners~~ inmates and detainees, confinement of military personnel as agreed to in a

Memorandum of Agreement between the United States Air Force and the Department of Corrections dated March 5, 2003, employees of the Department of Corrections for meals they purchase at the Department's dining facility, and the sale of hot garbage (pig slop) to private persons, shall be deposited into said Fund.

(1) Funds in the Corrections Revolving Fund may be used to purchase clothing for ~~prisoners~~ inmates and detainees, foodstuffs for the dining facility, galley catering services and, equipment, medical/dental supplies, reading glasses, prescription and over-the-counter medicines, sanitary/ hygiene supplies, and other pharmaceutical supplies for ~~prisoners~~ inmates and detainees, including payment for ~~prisoners~~ inmates and detainee maintenance costs in any off-island prison or medical institutions, payment for overtime and related personnel costs and for ~~DepCor~~ Department of Correction Reservists.

(2) Expenditures from the Fund shall be approved by the Director ~~of Corrections~~ and posted on the Department's website.

(3) A complete and accurate accounting of all money deposited into and withdrawn from such Fund shall be maintained by the Director of Administration.

(4) Such accounting shall include and clearly identify the sources and amounts of all funds paid into or withdrawn from said Fund.

(b) The Corrections Revolving Fund shall be maintained separate and apart from all other funds of the government of Guam.

~~(c) *No* expenditures and encumbrances from the Corrections Revolving Fund shall be made without legislative approval through appropriation.~~"

Section 106. § 90.51 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.51. Compliance to §§ 90.46-90.48.**

No person shall be transferred to a correctional institution outside of Guam unless the applicable provisions of §§ 90.46 [Emergency Transfers of Inmates], or 90.47 [Non-emergency Transfers of Inmates, or 90.48 of this ~~Code~~ Chapter have first been complied

with or unless such person has been legally sentenced to a term of imprisonment in such a correctional institution."

Section 107. § 90.54 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.54. Director, Department of Corrections May Commit ~~Prisoner~~ Inmate Outside of Guam Pursuant to Terms of Compact.**

The Director of Corrections may commit or transfer any inmate of a penal institution under his responsibility to any institution without Guam if Guam has entered into a contract or contracts for the confinement of inmates in such institution pursuant to Article III of the Compact."

Section 108. Article 3, Chapter 90 of Title 9, Guam Code Annotated, is hereby *repealed*:

"~~**ARTICLE 3**~~

~~Interstate Compact on Juveniles~~

~~§ 90.80. Purpose of Article: Title.~~

~~§ 90.82. Governor to Execute Compact: Compact Stated.~~

~~§ 90.84. Chief Judge of Superior Court to be Compact Administrator: Duties.~~

~~§ 90.80. Purpose of Article: Title.~~

~~The purpose of this Article is to enact enabling legislation for the Interstate Compact on Juveniles, hereinafter referred to as the Compact. This Article may be cited as the Interstate Compact on Juveniles Enabling Act.~~

~~§ 90.82. Governor to Execute Compact: Compact Stated.~~

~~The Governor of Guam is hereby authorized to execute and enter into a Compact on behalf of t Guam with any and all states, territories, Trust Territories and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico legally joined therein in a form substantially as follows:~~

~~Article I~~

~~Finding and Purposes~~

~~That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare of others. The cooperation of the states party to this Compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1)~~

~~cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of non-delinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this Compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this Compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this Compact. The provisions of this Compact shall be reasonably and liberally construed to accomplish the foregoing purposes.~~

~~Article II~~

~~Existing Rights and Remedies~~

~~That all remedies and procedures provided by this Compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.~~

~~Article III~~

~~Definitions~~

~~That, for the purposes of this Compact:~~

~~(a) *delinquent juvenile* means any juvenile who has been adjudged delinquent and who, at the time the provisions of this Compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court;~~

~~(b) *Probation or parole* means any kind of conditional release of juveniles authorized under the laws of the states party hereto;~~

~~(c) *Court* means any court having jurisdiction over delinquent, neglected or dependent children.~~

~~(d) *State* means any state, territory, and Trust Territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and~~

(e) *Residence or any variant thereof* means a place at which a home a regular place of abode is maintained.

Article IV

Return of Runaways

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate; and shall be accompanied by two (2) certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardian ship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with the petition. The judge of the court to which this application is made shall hold a hearing thereon to determine whether for the purposes of this Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, after a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent or a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or

~~agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One (1) copy of the requisition shall be filed with the Compact Administrator of the demanding state, there to remain on file subject to the provision of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue and order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who shall appoint counsel or guardian and litem for him. If the judge of such court shall find that the requisition is in order he shall deliver such juvenile over the officer whom the court demanding him shall have appointed to receive him. The judge, however may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.~~

~~Upon reasonable information that a person is a juvenile who has run away from another state party to this Compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who shall appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety (90) days as will enable his return to another state party to this Compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state; or if he is suspended of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any~~

state party to this Compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this Compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the law of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation cost of such return.

(c) That juvenile as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

Article V

Return of Escapes and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by the affidavit, shall be executed in duplicate, and shall be accompanied by two (2) certified copies of judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One (1) copy of the requisition shall be filed with the Compact Administrator of the demanding state, there to remain on file subject to provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such

~~delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. The delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who shall appoint counsel or guardian and litem for him. If the judge of such court shall find that the requisition is in order he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.~~

~~Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this Compact, such person may be taken into custody in any other state party to his Compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety (90) days, at will enable his detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this Compact, upon the establishment of their authority and identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this Compact, without interference. Upon his return to the state from which he escaped or~~

absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation cost of such return.

Article VI

Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this Compact, and any juvenile who has run away from any state party to this Compact, who is taken into custody without requisition in another state party to this Compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem shall inform the juvenile or delinquent juvenile of his rights under this Compact. When the consent has been duly executed, it shall be forwarded to and filed with the Compact Administrator of the state to which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return; and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the Compact Administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

Article VII

Cooperative Supervision of Probationers and Parolees

(a) That the duly constituted judicial and administrative authorities of a state party to this Compact (herein called 'sending state') may permit any delinquent juvenile within such

~~state, placed on probation or parole, to reside in any other state party to this Compact (herein called 'receiving state') while on probation or parole and the receiving state shall accept such delinquent juvenile if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigation as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value and assist the receiving state in supervising a probationer or parolee under this Compact. A receiving state, in it discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.~~

~~(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.~~

~~(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but, if at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or~~

~~juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this Compact, without interference.~~

~~(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.~~

~~Article VIII~~

~~Responsibility for Costs~~

~~(a) That the provisions of Articles IV (b), V (b), and VII (d) of this Compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.~~

~~(b) That nothing in this Compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV (b), V (b) or VII (d) of this Compact.~~

~~Article IX~~

~~Detention Practices~~

~~That, to every extent possible, it shall be the policy of states party to this Compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lock-up nor be detained or transported in association with criminal, vicious or dissolute persons.~~

~~Article X~~

~~Supplementary Agreements~~

~~That the duly constituted administrative authorities of a state party to this Compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care,~~

~~treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to this being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating state.~~

~~Article XI~~

~~Acceptance of Federal and Other Aids~~

~~That any state party to this Compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this Compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.~~

~~Article XII~~

~~Compact Administrators~~

~~That the Chief Judge of the Superior Court of Guam shall be the Compact Administrator and who, acting jointly with like officers of other states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this Compact.~~

~~Article XIII~~

~~Execution of Compact~~

~~That this Compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the~~

full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

Article XIV

Renunciation

That this Compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this Compact shall be by the same authority which executed it, by sending six (6) months' notice in writing of its intention to withdraw from the Compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereto shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six (6) months' renunciation notice of the present Article.

Article XV

Severability

That the provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating therein, the Compact shall remain in full force and effect as to the state affected as to all severable matters.

Article XVI

Out-of-State Confinement

(a) This Article, known as the Out-of-State Confinement Amendment to the Interstate Compact on Juveniles, is hereby enacted into law and entered into by this Territory with all other states legally joining therein the form substantially as follows:

(1) Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the Territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

~~(2) Escapees and absconders who could otherwise be returned pursuant to Article V of the Compact may be confined or reconfined in the receiving state pursuant to this Article. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such Article shall be made and furnished, but in place of the demand pursuant to Article V, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in Article V may be employed pursuant to this Paragraph preliminary to disposition of the escapee or absconder.~~

~~(3) The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this Article shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.~~

~~(4) As used in this Article: (1) sending state means sending state as the term is used in Article VII of the Compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of Article V of the Compact; (2) receiving state means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this Article.~~

~~(5) Every state which adopts this Article shall designate at least one of its institutions for delinquent juveniles as a Compact Institution and shall confine persons therein as provided in Paragraph (a) hereof unless the sending and receiving state in question shall make specific contractual arrangement to the contrary. All states party to this Article shall have access to Compact Institutions at all reasonable hours for the purpose of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.~~

~~(6) Persons confined in ACompact Institutions@ pursuant to the terms of this Compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said ACompact Institution@ for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge, or for any purpose permitted by the laws of the sending state.~~

~~(7) All persons who may be confined in a "ACompact Institution"@ pursuant to the provisions of this Article shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined~~

~~or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this Article be construed as a waiver of any rights which the delinquent would have had if he had been confined or reconfined in any appropriate institution of the sending state except that the hearing or hearings, if any, to which a parolee, probationer, escapee or absconder may be entitled (prior to confinement or reconfinement) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.~~

~~(8) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this Compact may enter into supplementary agreements determining a different allocation of costs as among themselves.~~

~~(A) Rules and regulations necessary to effectuate the terms of this Article may be promulgated by the appropriate officers of those states which have enacted this Article.~~

~~(B) In addition to any institution in which the authorities of this Territory may otherwise confine or order the confinement of a delinquent juvenile, such authorities may, pursuant to this Article, confine or order the confinement of a delinquent juvenile in a Compact Institution within another party state.~~

~~§ 90.84. Chief Judge of Superior Court to be Compact Administrator: Duties.~~

~~Pursuant to the Compact the Presiding Judge of the Superior Court shall be the Compact Administrator and shall promulgate rules and regulations to carry out the terms of the Compact. The Compact Administrator may enter into agreements with appropriate officials of other states or territories pursuant to the Compact. The Compact Administrator shall cooperate with all departments, agencies and officers of and in the government of Guam in facilitating the proper administration of the Compact or of any agreements entered into by Guam thereunder.~~"

Section 109. A new Article 3, Chapter 20, of Title 19, Guam Code Annotated, is hereby *added* to read:

"**ARTICLE 3**

INTERSTATE COMPACT ON JUVENILES

§ 20301. Purpose of Article: Title.

§ 20302. Governor to Execute Compact: Compact Stated.

§ 20303. Chief Judge of Superior Court to be Compact Administrator: Duties.

§ 20301. Purpose of Article: Title.

The purpose of this Article is to enact enabling legislation for the Interstate Compact on Juveniles, hereinafter referred to as the Compact. This Article may be cited as the Interstate Compact on Juveniles Enabling Act.

§ 20302. Governor to Execute Compact: Compact Stated.

I Maga'hågan/Maga'låhen Guåhan is hereby authorized to execute and enter into a Compact on behalf of Guam with any and all states, territories, Trust Territories and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico legally joined therein in a form substantially as follows:

Article I

Finding and Purposes

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare of others. The cooperation of the states party to this Compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent juveniles who have escaped or absconded; (3) the return, from one state to another, of non-delinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this Compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this Compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this Compact. The provisions of this Compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

Article II

Existing Rights and Remedies

That all remedies and procedures provided by this Compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

Article III

Definitions

That, for the purposes of this Compact:

(a) "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this Compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court;

(b) "Probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto;

(c) "Court" means any court having jurisdiction over delinquent, neglected or dependent children.

(d) "State" means any state, territory, and Trust Territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(e) "Residence or any variant thereof" means a place at which a home a regular place of abode is maintained.

Article IV

Return of Runaways

(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate; and shall be accompanied by two (2) certified copies of the document or

documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardian ship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with the petition. The judge of the court to which this application is made shall hold a hearing thereon to determine whether for the purposes of this Compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, after a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent or a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One (1) copy of the requisition shall be filed with the Compact Administrator of the demanding state, there to remain on file subject to the provision of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue and order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who shall appoint counsel or guardian and litem for him. If the judge of such court shall find that the requisition is in order he shall deliver such juvenile over the officer whom the court demanding him shall have appointed to receive him. The judge,

however may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this Compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who shall appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding ninety (90) days as will enable his return to another state party to this Compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state; or if he is suspended of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this Compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this Compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the law of that state.

(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation cost of such return.

(c) That juvenile as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

Article V

Return of Escapes and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent

juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by the affidavit, shall be executed in duplicate, and shall be accompanied by two (2) certified copies of judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One (1) copy of the requisition shall be filed with the Compact Administrator of the demanding state, there to remain on file subject to provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. The delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who shall appoint counsel or guardian and litem for him. If the judge of such court shall find that the requisition is in order he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this Compact, such person may be taken into custody in any other state party to his Compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding ninety (90) days, at will enable his detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks

the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this Compact, upon the establishment of their authority and identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this Compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation cost of such return.

Article VI

Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this Compact, and any juvenile who has run away from any state party to this Compact, who is taken into custody without requisition in another state party to this Compact under the provisions of Article IV(a) or of Article V(a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem shall inform the juvenile or delinquent juvenile of his rights under this Compact. When the consent has been duly executed, it shall be forwarded to and filed with the Compact Administrator of the state to which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return; and shall cause to be delivered to such officer or officers a copy of the

consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the Compact Administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

Article VII

Cooperative Supervision of Probationers and Parolees

Article VIII

Responsibility for Costs

(a) That the duly constituted judicial and administrative authorities of a state party to this Compact (herein called 'sending state') may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this Compact (herein called 'receiving state') while on probation or parole and the receiving state shall accept such delinquent juvenile if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigation as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value and assist the receiving state in supervising a probationer or parolee under this Compact. A receiving state, in it discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will

be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but, if at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this Compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

(a) That the provisions of Articles IV (b), V (b), and VII (d) of this Compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this Compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency, or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV (b), V (b) or VII (d) of this Compact.

That,

Article IX

Detention Practices

That, to every extent possible, it shall be the policy of states party to this Compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lock-up nor be detained or transported in association with criminal, vicious or dissolute persons.

Article X

Supplementary Agreements

That the duly constituted administrative authorities of a state party to this Compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonable inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to this being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating state.

Article XI

Acceptance of Federal and Other Aids

That any state party to this Compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this Compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

Article XII

Compact Administrators

That the Chief Judge of the Superior Court of Guam shall be the Compact Administrator and who, acting jointly with like officers of other states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this Compact.

Article XIII

Execution of Compact

That this Compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

Article XIV

Renunciation

That this Compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this Compact shall be by the same authority which executed it, by sending six (6) months' notice in writing of its intention to withdraw from the Compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereto shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six (6) months' renunciation notice of the present Article.

Article XV

Severability

That the provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating therein, the Compact shall remain in full force and effect as to the state affected as to all severable matters.

Article XVI

Out-of-State Confinement

(a) This Article, known as the Out-of-State Confinement Amendment to the Interstate Compact on Juveniles, is hereby enacted into law and entered into by this Territory with all other states legally joining therein the form substantially as follows:

(1) Whenever the duly constituted judicial or administrative authorities in a sending state shall determine that confinement of a probationer or reconfinement of a parolee is necessary or desirable, said officials may direct that the confinement or reconfinement be in an appropriate institution for delinquent juveniles within the Territory of the receiving state, such receiving state to act in that regard solely as agent for the sending state.

(2) Escapees and absconders who could otherwise be returned pursuant to Article V of the Compact may be confined or reconfined in the receiving state pursuant to this Article. In any such case the information and allegations required to be made and furnished in a requisition pursuant to such Article shall be made and furnished, but in place of the demand pursuant to Article V, the sending state shall request confinement or reconfinement in the receiving state. Whenever applicable, detention orders as provided in Article V may be employed pursuant to this Paragraph preliminary to disposition of the escapee or absconder.

(3) The confinement or reconfinement of a parolee, probationer, escapee, or absconder pursuant to this Article shall require the concurrence of the appropriate judicial or administrative authorities of the receiving state.

(4) As used in this Article: (1) sending state means sending state as the term is used in Article VII of the Compact or the state from which a delinquent juvenile has escaped or absconded within the meaning of Article V of the Compact; (2) receiving state means any state, other than the sending state, in which a parolee, probationer, escapee, or absconder may be found, provided that said state is a party to this Article.

(5) Every state which adopts this Article shall designate at least one of its institutions for delinquent juveniles as a Compact Institution and shall confine persons therein as provided in Paragraph (a) hereof unless the sending and receiving state in question shall make specific contractual arrangement to the contrary. All states party to this Article shall have access to Compact Institutions at all reasonable hours for the purpose

of inspecting the facilities thereof and for the purpose of visiting such of said state's delinquents as may be confined in the institution.

(6) Persons confined in ACompact Institutions@ pursuant to the terms of this Compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed from said ACompact Institution@ for transfer to an appropriate institution within the sending state, for return to probation or parole, for discharge, or for any purpose permitted by the laws of the sending state.

(7) All persons who may be confined in a "ACompact Institution"@ pursuant to the provisions of this Article shall be treated in a reasonable and humane manner. The fact of confinement or reconfinement in a receiving state shall not deprive any person so confined or reconfined of any rights which said person would have had if confined or reconfined in an appropriate institution of the sending state; nor shall any agreement to submit to confinement or reconfinement pursuant to the terms of this Article be construed as a waiver of any rights which the delinquent would have had if he had been confined or reconfined in any appropriate institution of the sending state except that the hearing or hearings, if any, to which a parolee, probationer, escapee or absconder may be entitled (prior to confinement or reconfinement) by the laws of the sending state may be had before the appropriate judicial or administrative officers of the receiving state. In this event, said judicial and administrative officers shall act as agents of the sending state after consultation with appropriate officers of the sending state.

(8) Any receiving state incurring costs or other expenses under this amendment shall be reimbursed in the amount of such costs or other expenses by the sending state unless the states concerned shall specifically otherwise agree. Any two or more states party to this Compact may enter into supplementary agreements determining a different allocation of costs as among themselves.

(A) Rules and regulations necessary to effectuate the terms of this Article may be promulgated by the appropriate officers of those states which have enacted this Article.

(B) In addition to any institution in which the authorities of this Territory may otherwise confine or order the confinement of a delinquent juvenile,

such authorities may, pursuant to this Article, confine or order the confinement of a delinquent juvenile in a Compact Institution within another party state.

§ 20303. Chief Judge of Superior Court to be Compact Administrator: Duties. Pursuant to the Compact the Presiding Judge of the Superior Court shall be the Compact Administrator and shall promulgate rules and regulations to carry out the terms of the Compact. The Compact Administrator may enter into agreements with appropriate officials of other states or territories pursuant to the Compact. The Compact Administrator shall cooperate with all departments, agencies and officers of and in the government of Guam in facilitating the proper administration of the Compact or of any agreements entered into by Guam thereunder."

Section 110. § 90.90 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.90. Prison Industries, ~~Established.~~**

~~(a) Prison Industries, Established~~. The Department ~~of Corrections~~ is hereby authorized to establish such prison industries as may be feasible to provide a means for inmates and detainees to receive job training and skills development; to provide opportunities for the earning of wages to be used to pay restitution to victims of crime, and payment of fines and court costs; and to provide additional means for funding certain recurring expenses of the Department. The Department *shall* separate and designate each prison industry to be established as occurring "within the secured perimeter" or occurring "outside the secured perimeter." This Act is *not* meant to replace the activities authorized by Chapter 84 of Article 1, Title 9, Guam Code Annotated, but *shall* be viewed as authorizing additional activities. This Chapter *shall not* supersede, *nor* affect any programs undertaken pursuant to Chapter 81 of this Title.

~~(b) Role of Corrections Advisory Council. The Corrections Advisory Council *shall* advise the Department on the suitability of any industry to be established, and may assist the Department in other matters relative to the establishment, operation, and maintenance of a chosen industry.~~

~~(c) Earnings Formula, established. Inmates shall be paid at no less than local prevailing wage rates as determined by the Director of Labor. Each inmate participating in a prison industry shall have all wages earned subject to this Earnings Formula:~~

~~(1) Twenty-five percent (25%) to the Criminal Injuries Compensation Fund.~~

~~(2) Twenty-five percent (25%) to payment of court-ordered fines, fees, and restitution. When such court-ordered fines, fees, and restitution have been satisfied, this percentage shall be applied to the Inmate's Account.~~

~~(3) Twenty-five percent (25%) to the Prison Industries Revolving Fund.~~

~~(4) Twenty-five percent (25%) to the Inmate's Account. Each participating inmate may elect to provide up to one hundred percent (100%) of the twenty-five percent (25%) for child and spousal support.~~

~~(5) In the event that the participating inmate does not owe any sum listed above, one hundred percent (100%) of earned wages shall be placed in the Inmate's Account.~~

~~(d) Eligibility to Participate. The Department *shall* establish criteria for determining an inmate's eligibility for participation in an established prison industry. All inmates shall be eligible for participation in an established prison industry consistent with eligibility requirements for other in-house prison rehabilitation programs unless otherwise ordered by a Court.~~

~~(e) In-kind Contributions and/or Credit for Services Allowed. The Department is authorized to enter into agreements with other government of Guam entities to receive in-kind contributions and/or a credit for services rendered in lieu of cash payments.~~

~~(f) Authority to Bid Granted. Notwithstanding the provisions of § 84.10(c) of Chapter 84, Article 1 of Title 9, Guam Code Annotated, the Department may submit its bid for the provision of services to a non-government entity, provided, that it includes as a component of its bid the costs for housing, utilities, food, supplies and any other item that would normally be considered as part of the overhead costs.~~"

Section 111. §90.91 of Chapter 90, Title 9, Guam Code Annotated, is hereby *amended* to read:

"**§ 90.91. Prison Industries Revolving Fund.**

(a) There is hereby created, within the Department ~~of~~ Corrections, a revolving fund called the "Prison Industries Revolving Fund" (Fund), which *shall* be established by the Department of Administration ~~in accordance with the following provisions:~~ .

~~(b) All funds collected from § 90.90(c) *shall* be deposited into said Fund.~~

~~(1) Funds in the Prison Industries Revolving Fund may be used to purchase clothing for prisoners and detainees, foodstuffs for the dining facility, galley catering services and equipment, medical/dental supplies, prescription and over-the-counter medicines, sanitary/hygiene supplies and other pharmaceutical supplies for prisoners and detainees, including, payment for prisoner-detainee maintenance costs in any off-island prison or medical institutions, payment for overtime and related personnel costs for personnel specifically assigned to tasks involving Prison Industries, and for training of Department of Corrections personnel.~~

~~(2) Expenditures from the Fund *shall* be approved by the Director of Corrections and posted on the Department's website.~~

~~(3) A complete and accurate accounting of all money deposited into and withdrawn from such Fund *shall* be maintained by the Director of Administration.~~

~~(4) Such accounting *shall* include and clearly identify the sources and amounts of all funds paid into *or* withdrawn from said Fund.~~

~~(c) The Prison Industries Revolving Fund *shall* be maintained separate and apart from all other funds of the government of Guam.~~

~~(d) The Fund *shall* be subject to an annual audit, and its findings *shall* be posted on the department's website.~~"

Section 111. Article 5, Chapter 90 of Title 9, Guam Code Annotated, is hereby repealed:

"~~**ARTICLE 5**~~

~~**TRANSFER PURSUANT TO TREATY**~~

~~**§ 90.100. [Untitled Section].**~~

~~When a treaty is in effect between the United States and a foreign country that provides for the transfer of convicted offenders who are citizens or nationals of the foreign country, upon the recommendation of the Attorney General of Guam, *I Maga'lahen Guåhan* (the Governor of Guam) or the Director of the Department of Corrections, if designated by *I Maga'lahi* (the Governor), on behalf of the island and subject to the terms of the treaty; may consent to the transfer of the convicted offenders who are under the jurisdiction of the Department of Corrections to the place or jurisdiction specified in the~~

~~treaty. *I Maga'lahen Guåhan* (the Governor) may take any other action necessary to initiate the participation of this territory in the treaty.~~"

Section 112. §60109 of Chapter 60, Title 10, Guam Code Annotated, is hereby *amended* to read:

"**§ 60109. Concealed Firearms.**

No identification card shall be issued permitting the holder to carry a concealed firearm of any nature unless:

~~(a) the applicant shows exceptional cause therefore. Such exceptional causes shall include, but not be limited to, facts which show that such concealment is absolutely necessary for an individual who is engaged in the protection of persons or property, or who shows that he has a genuine reason to fear for the safety of his person or property and that a concealed firearm would materially lessen the danger. Such permission, once stated upon the identification card, shall not be renewed unless, at the time for renewal, the application shows a continuing need for such permission, using the standards for such permission as they exist at the time for renewal. It shall be unlawful for any person to carry any firearm concealed unless he has received permission to carry such firearm and such permission is stated upon the face of his identification card; or~~

~~(b)~~ an applicant meets the requirements for a concealed firearms license as defined in §60109.1 of this Chapter. <u>It shall be unlawful for any person to carry any firearm concealed unless he has received permission in accordance with the provisions of this Chapter to carry such firearm and such permission is stated upon the face of his identification card.</u>"

Section 113. § 60110 of Chapter 60, Title 10, Guam Code Annotated, is hereby *amended* to read:

"**§ 60110. Registration.**

Any person purchasing, receiving by gift, device or otherwise, acquiring or otherwise coming into permanent possession of a firearm, the possession of which is permitted by this chapter, shall register the same with the Department within ~~three (3)~~ <u>five (5)</u> working days after acquiring said firearm on the forms specified by the Department <u>provided however any member of the United States Coast Guard or any Armed Forces of the United States arriving in Guam for a permanent change of station ("PCS"), or a</u>

dependent of the same, shall have 180 days from the arrival of the firearm(s) with their household goods to register such firearm(s). Failure to register shall result in a civil fine of $10.00 per day that the firearm is unregistered, in addition to the other penalties provided in this chapter. Any such fines shall be paid to the Treasurer of Guam for the account of the Department of Revenue and Taxation. Such facts and information shall be given so as to enable the Department to record for identification purposes the firearm so registered. It shall be unlawful for any person to own or possess any firearm which has not been registered. No firearm may be registered by the Department unless the person presenting the firearm also displays current identification card evidencing his eligibility to own, possess, use or carry the firearm presented for inspection as to the facts required for registration. Any firearm registration which expires on or after March 1, 1988 or which is thereafter issued under this chapter shall be permanent for as long as the registrant retains the firearm. The Chief of Police shall promulgate rules and regulations establishing a permanent firearms identification card and a reasonable fee to cover the cost incurred.

§ 60110.1. Firearms.

A grace period for payment of fees due for renewal of registration or for new registration for a firearm for a member of the United States Coast Guard or any Armed Forces of the United States including but not limited to the Guam National Guard or Reserves or a dependent of a member of the same ~~of the Guam National Guard or Reserves,~~ shall be in effect while that member is on active service outside Guam and for the next one hundred eighty (180) days after completion of such service. No interest or penalties shall be assessed for any period prior to expiration of the one hundred eighty (180) days."

Section 114. Effective Date. This Act shall be effective upon enactment.