

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
97-38 (LS) As amended by the Committee on Economic Investment, Military Buildup, Regional Relations, Technology, Regulatory Affairs, Justice, Elections, and Retirement; and further amended on the Floor.	Frank F. Blas, Jr. Telo T. Taitague	AN ACT TO <i>REPEAL</i> AND <i>REENACT</i> CHAPTER 11 OF TITLE 12, GUAM CODE ANNOTATED; AND TO <i>AMEND</i> §45.30(b) AND §45.40 OF CHAPTER 45, TITLE 8, GUAM CODE ANNOTATED; RELATIVE TO THE REORGANIZATION OF THE PUBLIC DEFENDER SERVICE CORPORATION TO PROVIDE EFFECTIVE LEGAL AID AND SERVICES TO PERSONS WHO ARE ENTITLED TO COUNSEL UNDER THE ORGANIC ACT OF GUAM, THE LAWS OF GUAM, AND THE UNITED STATES CONSTITUTION AND TO CITE THIS ACT AS THE "PUBLIC DEFENDER SERVICE CORPORATION ACT OF 2025."	3/25/25 3:39 p.m. ^4/9/25 11:22 a.m.	4/11/25	Committee on Economic Investment, Military Buildup, Regional Relations, Technology, Regulatory Affairs, Justice, Elections, and Retirement.	Request: 4/11/25 4/22/25	4/29/25 2:00 p.m.	7/7/25 As Amended.	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES	
	7/28/25	AN ACT TO <i>REPEAL</i> AND <i>REENACT</i> CHAPTER 11, TITLE 12, GUAM CODE ANNOTATED; AND TO <i>AMEND</i> § 45.30(b) AND § 45.40 OF CHAPTER 45, TITLE 8, GUAM CODE ANNOTATED; RELATIVE TO THE REORGANIZATION OF THE PUBLIC DEFENDER SERVICE CORPORATION TO PROVIDE EFFECTIVE LEGAL AID AND SERVICES TO PERSONS WHO ARE ENTITLED TO COUNSEL UNDER THE ORGANIC ACT OF GUAM, THE LAWS OF GUAM, AND THE UNITED STATES CONSTITUTION AND TO CITE THIS ACT AS THE "PUBLIC DEFENDER SERVICE CORPORATION ACT OF 2025."	7/31/25	8/6/25	8/18/25	38-48	8/18/25	Received: 8/18/25 Mess and Comm. Doc. No. 38GL-25-1058	

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

38GL-25-1058
OFFICE OF THE SPEAKER
FRANK F. BLAS JR.

Transmitted via Email to: speakerblas@guamlegislature.org

August 18, 2025

THE HON. FRANK BLAS, JR., Speaker
I Mina'trentai Ocho Na Liheslaturan Guåhan
38th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

AUG 18 2025
Time: 4:30pm
Received: [Signature]

Re: Bill No. 97-38 (LS), "AN ACT TO REPEAL AND REENACT CHAPTER 11, TITLE 12, GUAM CODE ANNOTATED; AND TO AMEND § 45.30(b) AND § 45.40 OF CHAPTER 45, TITLE 8, GUAM CODE ANNOTATED; RELATIVE TO THE REORGANIZATION OF THE PUBLIC DEFENDER SERVICE CORPORATION TO PROVIDE EFFECTIVE LEGAL AID AND SERVICES TO PERSONS WHO ARE ENTITLED TO COUNSEL UNDER THE ORGANIC ACT OF GUAM, THE LAWS OF GUAM, AND THE UNITED STATES CONSTITUTION AND TO CITE THIS ACT AS THE 'PUBLIC DEFENDER SERVICE CORPORATION ACT OF 2025'."

Håfa Adai Mr. Speaker,

It is appropriate that shortly after celebrating the fiftieth anniversary of the founding of the Guam Public Defender Service Corporation that Guam is taking the next step by creating an independent public defender agency. Bill No. 97-38 (LS) recognizes the need to continue to improve the manner in which legal services are provided to indigent persons accused of crimes to ensure compliance with the United States Constitution and the Organic Act's requirement of providing effective assistance of counsel.

The new structure of the Public Defender system allows the agency to develop the standards necessary to allow the attorneys of the Public Defender offices to have the time and resources necessary to properly represent their clients. Effective representation means more than simply having a licensed attorney sitting with you during court proceedings. It requires providing the attorneys the time to properly prepare and access the resources needed to prepare their cases. This will be done by allowing the board of directors of the Public Defenders Service Corporation to set limits on caseloads for attorneys to comply with national recommendations.

It is also important that in this bill, the Legislature recognizes that attorneys with the Public Defender's office should be funded at a comparable level as the Office of the Attorney General. This will allow the Public Defender system to continue to recruit and retain the best attorneys available and have access to the tools necessary to protect the rights of indigent people accused of crimes. Failure to properly fund the Public Defender Service Corporation will result in an unnecessary constitutional crisis.

To: The Hon. Frank Blas, Jr., *Speaker*
Fr: The Hon. Joshua F. Tenorio, *Acting Governor of Guam*
Date: August 18, 2025
Re: Bill No. 97-38 (LS)

Page 2 of 2

For these reasons I am signing Bill No. 97-38 (LS) into law as ***Public Law No 38-48.***

Senseramente



JOSHUA F. TENORIO

I Åkto Maga'låhen Guåhan

Acting Governor of Guam

Enclosure(s): Bill No. 97-38 (LS) nka P.L. 38-48

cc via email: *Honorable* Lourdes A. Leon Guerrero, *Maga'hågan Guåhan*, Governor of Guam
Compiler of Laws



38GL-25-1058

Messages and Communications

RECEIVED

COMMITTEE ON RULES

August 18, 2025

7:00 p.m.

Marie Crisostomo

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

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Bill No. 97-38 (LS)**, “AN ACT TO *REPEAL* AND *REENACT* CHAPTER 11, TITLE 12, GUAM CODE ANNOTATED; AND TO *AMEND* § 45.30(b) AND § 45.40 OF CHAPTER 45, TITLE 8, GUAM CODE ANNOTATED; RELATIVE TO THE REORGANIZATION OF THE PUBLIC DEFENDER SERVICE CORPORATION TO PROVIDE EFFECTIVE LEGAL AID AND SERVICES TO PERSONS WHO ARE ENTITLED TO COUNSEL UNDER THE ORGANIC ACT OF GUAM, THE LAWS OF GUAM, AND THE UNITED STATES CONSTITUTION AND TO CITE THIS ACT AS THE ‘PUBLIC DEFENDER SERVICE CORPORATION ACT OF 2025’,” was on the 31st day of July 2025, duly and regularly passed.



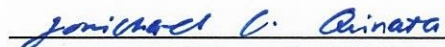
Frank F. Blas, Jr.
Speaker

Attested:



V. Anthony Ada
Acting Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 6th day of August, 2025, at 7:58 o'clock A.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:



JOSHUA F. TENORIO
ACTING GOVERNOR OF GUAM

Date: 8/18/25

Public Law No. 38-48



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

Bill No. 97-38 (LS)

As amended by the Committee on Economic Investment,
Military Buildup, Regional Relations, Technology,
Regulatory Affairs, Justice, Elections, and Retirement;
and further amended on the Floor.

Introduced by:

Frank F. Blas, Jr.
Telo T. Taitague
Eulogio Shawn Gumataotao
Therese M. Terlaje
Sabina Flores Perez
Shelly V. Calvo
Jesse A. Lujan
V. Anthony Ada
Chris Barnett
Sabrina Salas Matanane
Vincent A.V. Borja
Christopher M. Dueñas
Tina Rose Muña Barnes
William A. Parkinson
Joe S. San Agustin

**AN ACT TO *REPEAL* AND *REENACT* CHAPTER 11,
TITLE 12, GUAM CODE ANNOTATED; AND TO *AMEND*
§ 45.30(b) AND § 45.40 OF CHAPTER 45, TITLE 8, GUAM
CODE ANNOTATED; RELATIVE TO THE
REORGANIZATION OF THE PUBLIC DEFENDER
SERVICE CORPORATION TO PROVIDE EFFECTIVE
LEGAL AID AND SERVICES TO PERSONS WHO ARE
ENTITLED TO COUNSEL UNDER THE ORGANIC ACT
OF GUAM, THE LAWS OF GUAM, AND THE UNITED
STATES CONSTITUTION AND TO CITE THIS ACT AS
THE “PUBLIC DEFENDER SERVICE CORPORATION
ACT OF 2025.”**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the right to counsel is a fundamental guarantee under the Organic Act of Guam
4 and the Sixth Amendment to the United States Constitution. This right obligates
5 Guam to ensure effective assistance of counsel to indigent individuals facing a
6 potential loss of liberty.

7 *I Liheslaturan Guåhan* further finds under Guam law, the Public Defender
8 Services Corporation (PDSC) administers the majority of adult and juvenile trial and
9 appellate representation throughout Guam. In this system, primary representation is
10 provided by public defenders from the PDSC division, while secondary
11 representation is administered by the Alternate Public Defender (APD) division.
12 Tertiary representation is provided by a Private Attorney Panel appointed by the
13 Judiciary and compensated on an hourly basis. In cases where no panel attorney is
14 available, judges have the authority to appoint a licensed attorney to ensure
15 representation.

16 *I Liheslaturan Guåhan* further finds that a March 2024 evaluation by the Sixth
17 Amendment Center identified challenges in achieving full independence for Guam's
18 indigent defense system, which is essential to ensuring effective representation and
19 public confidence in the justice system. The report highlighted the need for an
20 independent governance structure to oversee indigent defense services, addressing
21 key areas such as attorney qualifications, supervision, and resource allocation.

22 *I Liheslaturan Guåhan* further finds that for years, the Judiciary of Guam has
23 overseen and provided administrative support for the operations of the Private
24 Attorney Panel. While the Judiciary's leadership has been necessary to ensure the
25 right to counsel during the early development of indigent defense, *I Liheslatura*
26 recognizes the importance of establishing independence to prevent undue influence

1 from any single branch of government, improving the delivery of justice and
2 upholding constitutional rights.

3 It is therefore the intent of *I Liheslaturan Guåhan* that the Public Defender
4 Service Corporation shall manage the island's public legal services delivery system.
5 This corporation will oversee all indigent defense services on Guam, including, at
6 minimum, a public defender division, an alternate public defender division, a civil
7 legal services division, and a private attorney panel. The corporation will further
8 have the authority to promulgate and enforce standards for indigent defense, collect
9 and analyze data, and allocate resources to maintain effective and equitable
10 representation.

11 *I Liheslaturan Guåhan* further intends to appropriate funds directly to the
12 Guam Public Defender Service Corporation and maintain continued funding from
13 the Judicial Client Service Fund pursuant to § 9602 of Chapter 9.6, Title 7, Guam
14 Code Annotated, ensuring a reliable and stable funding source.

15 Through this legislation, *I Liheslaturan Guåhan* reaffirms its commitment to
16 protecting the constitutional rights of all residents.

17 **Section 2.** Chapter 11 of Title 12, Guam Code Annotated is hereby *repealed*
18 and *reenacted* to read:

19 **“CHAPTER 11**

20 **GUAM PUBLIC DEFENDER SERVICE CORPORATION ACT**

21 § 11101. Short Title

22 § 11102. Definitions

23 § 11103. Establishment of The Public Defender Service Corporation

24 § 11104. Corporation: Powers and Duties

25 § 11105. Board of Trustees: Appointments, Membership, and Terms

26 § 11106. Board of Trustees: Qualifications

27 § 11107. Board of Trustees: Meetings, Compensation, and Removal

28 § 11108. Board of Trustees: Powers and Duties

- 1 § 11109. Board of Trustees: Minimum Standards, Rules, and Procedures
- 2 § 11110. Director: Appointment and Qualifications
- 3 § 11111. Director: Powers and Duties
- 4 § 11112. Personnel and Employment
- 5 § 11113. Additional Authority
- 6 § 11114. Data Collection
- 7 § 11115. Funding
- 8 § 11116. Annual Report
- 9 § 11117. Federal Landtakings: Legal Aid and Assistance.
- 10 § 11118. Same: No Charge for Costs and Services.
- 11 § 11119. Continuity of Operations
- 12 **§ 11101. Short Title.** This Chapter may be cited as the Public Defender
- 13 Service Corporation Act of 2025.
- 14 **§ 11102. Definitions.**
- 15 (a) ‘Attorney’ means a person licensed to practice law in Guam.
- 16 (b) ‘Child’ or ‘minor’ means a person less than eighteen (18) years of age
- 17 on the date legal proceedings are first commenced against the person.
- 18 (c) ‘Corporation’ means Public Defender Service Corporation.
- 19 (d) ‘Board’ means the Board of Trustees of the Corporation.
- 20 (e) ‘Division’ means an organized structure within the Public Defender
- 21 Service Corporation.
- 22 (f) ‘Managing Attorney’ means the head of each Public Defender Service
- 23 Corporation division.
- 24 (g) ‘Director’ means the attorney appointed by the Public Defender Service
- 25 Corporation Board to oversee all Public Defender Service Corporation divisions.
- 26 (h) ‘Indigent’ means a person who does not have sufficient resources to
- 27 retain a private attorney and pay for the necessary expenses of legal representation
- 28 without substantial burden or undue hardship.

1 (i) 'Lawyer' means a person licensed to practice law in a jurisdiction
2 subject to the Sixth Amendment of the U.S. Constitution.

3 (j) 'Public legal services' means legal representation provided to an
4 indigent person.

5 (k) 'Public legal services' provider means an attorney or Division
6 providing public legal services by the Corporation.

7 **§ 11103. Establishment of The Public Defender Service Corporation.**

8 In order to provide effective public legal services to those persons in Guam, there is
9 created a public corporation to be known as the Public Defender Service
10 Corporation. The Public Defender Service Corporation is established as an entity
11 within the government of Guam subject to the Supreme Court of Guam and *I*
12 *Liheslaturan Guåhan's* inherent, statutory, and Organic Act authority. The
13 Corporation shall have authority to oversee, supervise, administer and budget for
14 public legal services in Guam.

15 **§ 11104. Corporation: Powers and Duties.** The Corporation shall:

16 (a) Accept all appointments from the courts of Guam to provide indigent
17 defense, and legal services, unless all divisions have a conflict of interest, or
18 excessive workloads. It shall be the duty of the Corporation to defend indigent
19 persons charged in criminal cases before the courts of Guam. The determination of
20 whether a defendant is indigent and whether the case is to be referred to the
21 Corporation shall be at the discretion of the judge before whom such defendant is
22 appearing. The Corporation may assist the judges of the courts of Guam in ruling on
23 cases of indigency and in establishing criteria for determining when the services of
24 the Corporation are appropriate.

25 (b) Render civil legal services to those persons in Guam, who, under rules
26 established by the Corporation, are in the greatest economic and social need of legal
27 assistance and representation, subject to the availability of funds. The Corporation
28 shall not accept fee-generating cases and shall give legal assistance in civil matters

1 only to those who would otherwise not receive such assistance. The Corporation
2 may apply for, receive, and administer grants, subgrants or enter into
3 intragovernmental and intergovernmental agreements to provide legal services to
4 elderly individuals or other classes of individuals in need, as defined pursuant to
5 local or federal laws, regulations, or guidelines. The Corporation is authorized to
6 comply with the requirements of federal grants, subgrants, and intragovernmental
7 and intergovernmental agreements, to include representation of individuals who may
8 qualify for services pursuant to the terms of federal grants, subgrants, and
9 intragovernmental and intergovernmental agreements.

10 (c) Apply for, receive, distribute, and administer grants.

11 (d) Establish divisions to oversee a public legal services delivery system
12 that shall consist of, at a minimum, the following:

13 (1) Administration Division to provide for the day-to-day operations
14 of the Corporation and to provide training, human resources, technology, data
15 collection, finance, accounting, resources, communication, administrative
16 support to all other divisions, and other such duties as assigned by the
17 Director.

18 (2) Public Defender Division to provide public legal services to
19 indigent persons in criminal and juvenile proceedings, including Petitions for
20 Persons in Need of Services, appeals therefrom, and in writ proceedings
21 involving the protection of constitutional rights, when those persons are
22 entitled to public legal services in the Superior Court of Guam, unless the
23 Public Defender Division has a conflict of interest, and other such duties as
24 assigned by the Director.

25 (3) Alternate Public Defender Division to provide public legal
26 services to indigent persons in criminal and juvenile proceedings when the
27 Public Defender Division has a conflict of interest, unless the Alternate Public

1 Defender Division has a conflict of interest, and other such duties as assigned
2 by the Director.

3 (4) Civil Law Division to provide civil legal representation to
4 indigent persons, unless the Civil Law Center has a conflict of interest. In
5 accordance to the mandates under 12 G.C.A. § 11105, the Civil Law Center
6 shall be strictly responsible for handling only matters relating to civil public
7 legal services. To avoid conflicts, the Civil Law Center shall not receive
8 criminal court appointments.

9 (5) Private Attorney Panel Division to provide public legal services
10 to indigent persons in criminal and juvenile cases, including Petitions for
11 Persons in Need of Services, appeals therefrom, and in writ proceedings
12 involving the protection of constitutional rights, when those persons are
13 entitled to public legal services in the Superior and Supreme courts of Guam
14 who cannot be represented by any other division due to a conflict of interest.
15 Private Attorney Panel providers and support staff providing this
16 representation shall not be employees of the Corporation. This division may
17 include a panel of investigators appointed to assist Private Attorney Panel
18 attorneys on a case by case basis. The Private Attorney Panel Division shall
19 consist of attorneys qualified by Board Policy to receive appointments for the
20 provision of public legal services when both the Public Defender Division and
21 Alternate Public Defender divisions is unable to represent an indigent
22 defendant due to a conflict of interest. Such private attorneys may be retained
23 as independent contractors based upon possessing qualifications established
24 by the Board and receiving a rate of One Hundred and Fifty (\$150) dollars per
25 hour, subject to case-type-based caps, until the Corporation develops and
26 adopts alternative compensation policies, in consultation with the Guam Bar
27 Association. Any proposed increase to the hourly rates for Private Attorney

1 Panel providers must be approved through a resolution by the Superior Court
2 of Guam.

3 (6) The Director may establish such divisions or other organizational
4 units as may be determined to be necessary for the efficient and effective
5 administration and operation of the Corporation.

6 (e) Advocate to the government of Guam for resources and policies
7 necessary to ensure effective public legal services, to include resource parity.

8 (f) Has the power to do any and all things necessary to further the purposes
9 of this Chapter and to perform the duties imposed by subsection (a) and (b).

10 (g) Has the power to sue on behalf of the Corporation, its client, or its
11 employees, to enforce any rights granted to the Corporation or mandated by law or
12 granted by the Organic Act of Guam, the U.S. Constitution or the laws of Guam.

13 (h) Has the power to lease, evict, or sue on behalf of the Corporation,
14 relative to the Corporation's properties, equipment, and facilities.

15 **§ 11105. Board of Trustees: Appointments, Membership, and Terms.**

16 All powers vested in the Corporation, except as otherwise provided in this Chapter,
17 shall be exercised by the Board of Trustees. The Board shall consist of seven
18 members. At least four members shall be licensed to practice law in Guam.

19 (a) The Board members shall be appointed as follows:

20 (1) Two members by the Chief Justice of The Supreme Court
21 of Guam, one of whom has experience in public administration,
22 finance, and/or budgeting, and one of whom has experience in the field
23 of social work.

24 (2) Two members by the *I Maga'hågan/Maga'låhen Guåhan*,
25 both of whom must be lawyers;

26 (3) Two members by the Speaker of *I Liheslaturan Guåhan*,
27 one of whom must be a lawyer and one who is a member of the general
28 public;

1 (4) One member by the President of the Guam Bar
2 Association, who must be a lawyer.

3 (b) If any one of these entities fails to appoint, cannot appoint, or
4 refuses to appoint a Board member within thirty days of the request, the
5 Director shall appoint an acting Board member until such time as the vacancy
6 is filled.

7 (c) The term for a Board member shall be four years. Board
8 members shall hold office until their successors are appointed and shall
9 continue to exercise such duties until a successor is appointed. Board
10 members shall not serve more than two successive full terms. The initial terms
11 of the members shall be staggered: two members shall be appointed for a term
12 of four years each, two members shall be appointed for a term of three years
13 each, two members shall be appointed for a term of two years each, and one
14 member shall be appointed for a term of one year. Initial appointments shall
15 be for the following terms:

16 (1) The members appointed by the Chief Justice shall serve an
17 initial term of four years.

18 (2) The lawyer members appointed by *I*
19 *Maga'håga/Maga'låhi* shall serve an initial term of two years.

20 (3) The lawyer member appointed by the Speaker of *I*
21 *Liheslaturan Guåhan* shall serve an initial term of three years.

22 (4) The non-lawyer member appointed by the Speaker of *I*
23 *Liheslaturan Guåhan* shall serve an initial term of three years.

24 (5) The member appointed by the President of the Guam Bar
25 Association, shall serve an initial term of one year.

26 (d) A vacancy in the Board membership shall be filled in the same
27 manner as the original appointment.

1 (e) The Board shall elect a chairperson and vice chairperson from its
2 membership to serve a two-year term. A member shall not serve as
3 chairperson and vice chairperson of the Board for more than two successive
4 full terms.

5 **§ 11106. Board of Trustees: Qualifications.**

6 (a) A person appointed to the Board shall have:

7 (1) significant experience in the legal representation of criminal,
8 juvenile or civil cases; or

9 (2) a demonstrated commitment to quality public legal services.

10 (b) No person shall be appointed to, or serve on, the Board who is a:

11 (1) current justice, judge, judicial officer, Guam Bar Association
12 Officer, or employee thereof;

13 (2) current prosecutor, law enforcement official, or employee
14 thereof;

15 (3) current elected Senator, legal services provider or employee of
16 the Corporation; or

17 (4) current contractor with, or recipient of funding from, the
18 Corporation, Office of the Attorney General (OAG), or employee thereof.

19 (c) Lawyer members may be retired judicial officers, inactive attorneys,
20 and retired attorneys who resigned in good standing.

21 **§ 11107. Board of Trustees: Meetings, Compensation, and Removal.**

22 (a) No less than four Board members shall constitute a quorum at a meeting
23 of the Board of Trustees. No less than four Board members must vote in favor for a
24 motion to pass. Board meetings shall be open to the public and subject to the Open
25 Government Law. Board meetings may be held virtually so long as there is
26 opportunity for meaningful public participation and pursuant to Guam law.

27 (b) Board members shall receive a stipend of One Hundred (\$100) dollars
28 per meeting, not to exceed Two Hundred (\$200) dollars in a month.

1 (c) The majority of the Board may remove a member for cause. Grounds
2 for removal and procedure shall be set forth in the bylaws.

3 **§ 11108. Board of Trustees: Powers and Duties.** The Board of Trustees
4 shall:

5 (a) Establish standards governing effective public legal services in
6 Guam. Such standards shall be designed to ensure public legal services meet
7 constitutional requirements required under the Organic Act of Guam, the laws
8 of Guam, the United States Constitution, and industry best practices.

9 (b) Establish a formal indigency determination standard to assess a
10 person's eligibility to receive public legal services. The indigency
11 determination shall be periodically reviewed so that the standard reflects the
12 current state of Guam's economy. In establishing a formal indigency
13 determination standard, the Board shall:

14 (1) Determine the prevailing rate for retaining a private
15 defense attorney in Guam;

16 (2) Establish a presumption of indigency, whereby a person is
17 automatically presumed indigent in certain situations, including but not
18 limited to a person who is incarcerated; a person in a mental health,
19 substance abuse, or any other type of residential or treatment facility; a
20 person who is unemployed; a person who is the recipient of any type of
21 public assistance at the time of the indigency determination; or a person
22 who is a minor; and

23 (3) Consider the person's dependents, income, and other
24 factors for the court to make a fair and efficient determination of a
25 person's indigency.

26 (c) Appoint the Director to oversee all Corporation divisions.

27 (d) Conduct an annual performance evaluation for the Director.

1 (e) Establish minimum qualifications for each division Managing
2 Attorney.

3 (f) Approve, modify, and/or disapprove budget requests from the
4 Director and submit financial and budgetary requests and reports to the
5 judiciary, *I Liheslatura*, and/or *I Maga'håga/Maga'låhi* as required by law.

6 (g) Adopt such policies and procedures as may be necessary to carry
7 out the Board's powers and duties, including adopting bylaws to govern the
8 Corporation and all divisions within the Corporation.

9 (h) Adopt policy and rules for the operation of the Corporation,
10 including but not limited to, personnel, procurement, facilities and property,
11 financial and travel.

12 (i) All powers vested in the Corporation, except as otherwise
13 provided in the Chapter, shall be exercised by the Board.

14 **§ 11109. Board of Trustees: Minimum Standards, Rules, and**
15 **Procedures.** The Board of Trustees shall promulgate and implement minimum
16 standards, rules, and procedures to guarantee indigent persons effective assistance
17 of counsel as provided under the Organic Act of Guam, the laws of Guam, and the
18 United States Constitution. The minimum standards, rules, and procedures shall
19 apply to all public legal services providers. Such standards, rules, and procedures,
20 shall be guided by the following principles:

21 (a) The delivery of public legal services shall be independent of
22 judicial and political influence.

23 (b) Public legal services providers' ability, training, and experience
24 shall match the nature and complexity of the case appointed.

25 (c) Public legal services providers shall attend initial and annual
26 training relevant to the types of cases on which they provide representation.

27 (d) Public legal services providers' workloads shall be controlled to
28 permit sufficient time and resources to represent every indigent client.

1 Procedures shall be established for the Corporation to decline cases due to
2 excessive workload.

3 (e) Public legal services providers shall be appointed immediately
4 after arrest, detention, or upon request and shall confer with their client prior
5 to the next court appearance.

6 (f) Waiver of the right to counsel shall not be coerced or encouraged.
7 Before a person may waive counsel, they must be provided a meaningful
8 opportunity to confer with a public legal services provider.

9 (g) Barring conflicts of interest, the same public legal services
10 provider or Division shall continuously represent and personally appear at
11 every court appearance throughout the pendency of the case.

12 (h) Each indigent person shall receive a public legal services
13 provider who is free of conflicts of interest as early as possible in the case.

14 (i) Public legal services providers shall be provided space where
15 attorney-client confidentiality is safeguarded for meetings with clients.

16 (j) Public legal services providers shall be compensated at a rate that
17 does not discourage, disincentivize, or impair the provider's ability to provide
18 effective representation. No public legal services provider shall be paid a flat
19 fee in exchange for legal representation services. Government employed
20 public legal services providers shall be compensated at a rate comparable to
21 other publicly funded attorneys and should not be compensated less than
22 prosecutors. Private attorneys should be paid at a rate that reflects the cost of
23 overhead and other office expenses, as well as payment for work.

24 (k) Public legal services providers shall have clear procedures for
25 obtaining experts, investigators, social workers, interpreters, secretaries,
26 paralegals, and resources for cases that do not discourage, disincentivize, or
27 impair the provider's ability to provide effective representation.

1 (l) Public legal services providers shall be systematically reviewed
2 for effective representation according to the Corporation's standards.

3 (m) Public legal services providers shall provide requested data to the
4 Corporation.

5 **§ 11110. Director: Appointment and Qualifications.** The Board shall
6 appoint the Director, who shall head and oversee the operation of all Corporation
7 divisions.

8 (a) The Director shall directly supervise the administrative division
9 and shall supervise the other divisions through the Managing Attorneys.

10 (b) The Director shall be appointed by approval of five Board
11 members and for a term of office of four years, which can be renewed.

12 (c) The Director shall not be removed by the Board during his/her
13 term of appointment, absent for cause shown through due process.

14 (d) The Director shall be an unclassified position. If the Director is
15 appointed from among the classified employees of the Government, upon the
16 termination of the appointment as Director, the former Director may return to
17 the classified position held previously as provided for in the personnel rules
18 of the Corporation.

19 (e) The Director shall be an attorney with the following minimum
20 qualifications:

21 (1) Licensed to practice law in Guam;

22 (2) Five years of legal experience in public legal services in
23 criminal or juvenile delinquency cases, at the trial or appellate level;

24 (3) Commitment to ensuring effective public legal services to
25 all indigent persons in Guam; and

26 (4) Experience in management, or with the legislative process.

1 (f) The Director shall be full-time and devote their entire time during
2 ordinary business hours to their duties. The Director shall neither directly nor
3 indirectly engage in the private practice of law, except for *pro bono* work.

4 **§ 11111. Director: Powers and Duties.** The Director shall have the sole
5 responsibility to carry out the purposes and duties of the Corporation and ensure that
6 each division fulfills its statutory duty, including but not limited to:

7 (a) Appointing a Deputy Director, and fix his/her duties, under and
8 in accordance with 4 GCA, as may be necessary for the purposes of this
9 Chapter.

10 (b) Appointing the managing attorney of each Corporation division,
11 when necessary.

12 (c) Hiring the necessary attorney, professional, technical, and
13 support staff for each division to accomplish the division's statutory duties.

14 (d) Determining and implementing the method for delivering public
15 legal services by utilizing government-employed public defenders and private
16 attorneys.

17 (e) Requiring and receiving monthly financial reporting from each
18 division, including assets, liabilities, receipts, and expenditures.

19 (f) Collecting and analyzing data from all divisions.

20 (g) Requesting proposed budgets from each division, to propose a
21 comprehensive budget for each division to the Board of Trustees.

22 (h) Proposing budgets and policies to the Board of Trustees.

23 (i) Distributing legislative appropriations to each division.

24 (j) Assisting the Board in developing standards.

25 (k) Investigating, auditing, and reviewing the operation of all public
26 legal services to ensure compliance with the Board of Trustees' standards,
27 rules, and procedures.

1 (l) Identifying and implementing a system of performance metrics
2 to assess compliance with Board standards.

3 (m) Establishing procedures for clients, judges, and prosecutors to
4 communicate concerns and/or needs regarding the provision of public legal
5 services, and procedures for the Corporation to respond.

6 (n) Establishing procedures for monitoring, and responding to, client
7 complaints on an ongoing basis.

8 (o) Providing training and support to all public legal services
9 providers.

10 (p) Submitting an Annual Report to the Board of Trustees.

11 **§ 11112. Personnel and Employment.**

12 (a) Pursuant to the provisions of 4 GCA § 4105, the Board shall
13 establish rules and regulations governing selection, promotion, performance
14 evaluation, demotion, suspension and other disciplinary action for the
15 employees of the Corporation.

16 (b) Employees of the Corporation shall be in the classified service
17 unless otherwise authorized by law. Employees of the Corporation shall be
18 members of the Government of Guam Retirement Fund, subject to the
19 provisions of 4 GCA § 8105, except that for the purposes of Subsection (a) of
20 said Section, the employees of the Corporation shall not be considered
21 employees of a “public corporation,” whereby their membership in the Fund
22 is optional and membership therein must be specifically requested. The
23 Corporation shall contribute to the Government of Guam Retirement Fund on
24 the basis of annual billings, as determined by the Board of Trustees of the
25 Government of Guam Retirement Fund, for the government share of the cost
26 of the retirement benefits applicable to the Corporation’s employees and their
27 beneficiaries. The Corporation shall also contribute to the Workmen’s
28 Compensation Fund, on the basis of annual billings, as determined by the

1 Workmen's Compensation Commission, for the benefit payments made from
2 such Fund on account of the Corporation's employees.

3 (c) Notwithstanding any other provision of law, compensation for
4 employees of the Corporation shall be in accordance with the compensation
5 plan set forth in the "Government of Guam Competitive Wage Act of 2014 as
6 amended by the 2024 Updated Attorney Pay Plan, General Pay Plan, and Law
7 Enforcement Pay Plan," subject to appropriations, unless modified by the
8 Board pursuant to Title 4 GCA §6302.

9 (d) The attorneys employed by the Corporation may practice before
10 the courts of Guam on the same basis as other government attorneys pursuant
11 to the Guam Rules Governing Admission to the Practice of Law.

12 **§ 11113. Additional Authority.** The Corporation may require assistance
13 from any department or agency of the government of Guam in fulfilling its
14 responsibility pursuant to this chapter, including but not limited to waiving any fees
15 or costs for services involving the representation of indigent clients.

16 **§ 11114. Data Collection.** The Corporation shall, at a minimum, collect
17 and regularly review data related to:

18 (a) Public legal services providers' workloads that detail the number
19 of cases, by case type, open at the start of the month; newly opened cases
20 during the month; closed cases during the month; and open cases at the end of
21 the month. Data shall be provided for each division as a whole and for each
22 attorney providing representation within a division;

23 (b) The time public legal services providers devote to providing
24 representation in individual cases, and the time devoted to non-case-related
25 work;

26 (c) The use of investigators, experts, social workers and other
27 support services;

28 (d) Major case events;

- 1 (e) Case outcomes;
- 2 (f) Monetary expenditures;
- 3 (g) Clients' race, ethnicity and gender;
- 4 (h) Persons waiving public legal services, persons seeking public
- 5 legal services, persons denied public legal services, and persons denied public
- 6 legal services who proceed in their case without counsel or with retained
- 7 counsel; and
- 8 (i) All other data necessary to ensure effective public legal services
- 9 in Guam.

10 **§ 11115. Funding.** The Corporation shall be funded to ensure effective

11 public legal services are provided as required by the Organic Act of Guam, the laws

12 of Guam, and the United States Constitution.

13 (a) There is hereby established a fund to be known as the "Public

14 Defender Service Corporation Fund," which shall be maintained by the

15 Administration Division separate and apart from other funds of the

16 Government, and independent records and accounts shall be maintained in

17 connection therewith. Every quarter, the financial statement of the Public

18 Defender Service Corporation Fund shall be furnished to *I Liheslaturan*

19 *Guåhan*.

20 (b) All moneys received by the Corporation, from whatever source

21 derived, including local appropriation or grant, federal appropriation or grant,

22 shall be deposited in the Public Defender Service Corporation Fund. The

23 Corporation shall be allowed to carry over all lapses from fiscal year to fiscal

24 year, notwithstanding any other provision of law, or administrative provision

25 in public laws setting forth each fiscal year's budget. This provision shall

26 remain in effect in all budgets hereafter, unless specifically amended or

27 repealed by subsequent legislation.

1 (c) The Judiciary of Guam shall continue to provide annual funding
2 to the Public Defender Service Corporation from the Judicial Client Service
3 Fund as cited in § 9602 of Chapter 9.6, Title 7, Guam Code Annotated (Public
4 Law 27-055).

5 (d) All expenditures for the Corporation and its divisions shall be
6 made from the Public Defender Service Corporation Fund.

7 (e) The Corporation shall adopt and maintain a uniform system of
8 accounting.

9 **§ 11116. Annual Report.** The Corporation shall submit an annual report,
10 which shall be public, to *I Maga'håga/Maga'låhi, I Liheslatura*, and the Supreme
11 Court of Guam. The annual report must include, but not be limited to, data on
12 operations, itemized expenditures and revenues, and compliance with the
13 Corporation's standards. All annual reports must be posted on the Corporation's
14 website.

15 **§ 11117. Federal Landtakings: Legal Aid and Assistance.**
16 Notwithstanding the provisions of § 11104(b) of this Title, the Public Defender
17 Service Corporation shall assist and represent in court or otherwise persons who
18 have apparently valid claims under §204 (relating to federal landtakings) of the
19 Territorial Omnibus 7 Act of 1977 (H.R. 6550). The Corporation shall render legal
20 aid and assistance to any person who qualifies under the following guidelines:

21 (a) A family or individual below one hundred fifty percent (150%)
22 of the Community Service Administration's (CSA) Income Poverty
23 Guidelines adjusted for Guam;

24 (b) A family or individual who is receiving welfare benefits; or (c)
25 A person who has been rejected, in writing, by two (2) private practicing
26 members of the Guam Bar.

27 **§ 11118. Same: No Charge for Costs and Services.** The Public Defender
28 Service Corporation shall not charge claimants for its general costs or services or

1 require a claimant to repay any filing fees or other court related fees incurred in the
2 representation of the claimant. The Corporation may require assistance from any
3 department or agency of the government of Guam in fulfilling its responsibility
4 pursuant to this Chapter.

5 **§ 11119. Continuity of Operations.**

6 The Public Defender Service Corporation re-enacted herein shall be the
7 successor to the Public Defender Service Corporation. All employees of the Public
8 Defender Service Corporation, including the Alternate Public Defender and the Civil
9 Law Center, shall be transferred to the Public Defender Service Corporation.
10 Wherever Guam law, rule or regulation refers to the Public Defender Service
11 Corporation, such references shall remain applicable to the re-enacted Public
12 Defender Service Corporation.”

13 **Section 3.** § 45.30(b) of Chapter 45, Title 8, Guam Code Annotated, is
14 hereby *amended* to read:

15 “(b) If the defendant appears without counsel, the court shall ask him
16 if he desires the assistance of counsel. If he desires counsel, the court shall
17 inquire of him whether he is financially able to employ counsel and, if so,
18 whether he desires to employ counsel of his choice or to have counsel assigned
19 to him through the Public Defender Service Corporation. If he desires
20 assignment of counsel, the court shall make such assignment. The court shall
21 assign counsel at public expense if the defendant desires counsel and is
22 financially unable to employ counsel.”

23 **Section 4.** § 45.40 of Chapter 45, Title 8, Guam Code Annotated, is hereby
24 *amended* to read:

25 “**§45.40.** In any criminal or juvenile proceeding in which a person is
26 entitled to be represented by counsel at public expense and because of a conflict of
27 interest the attorneys from the Public Defender Divisions, the attorneys from the
28 Alternate Public Defender Division, and the attorneys from the Private Attorney

1 Panel have properly refused to represent the person, the Board of Trustees of the
2 Public Defender Service Corporation shall appoint private counsel for the person
3 who shall receive reasonable compensation and necessary expenses to be paid by the
4 Public Defender Service Corporation subject to appropriation.”

5 **Section 5. Board Appointment Prior to Effect Date of Act.** The Board of
6 Trustees of the Public Defender Service Corporation may be appointed prior to
7 October 1, 2025 in order to adopt its policies and procedures prior to the effective
8 date of this Act.

9 **Section 6. Effective Date.** This Act shall become effective on October 1,
10 2025.