



Judiciary of Guam

Guam Criminal Law and Procedure Review Commission
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HON. ROBERT J. TORRES
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

HON. JONATHAN R. QUAN
CHAIRMAN

ANDREW SERGE QUENGA
EXECUTIVE DIRECTOR

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION (CLRC) PLENARY MEETING | THURSDAY, DECEMBER 3, 2024 MINUTES

I. CALL TO ORDER

The meeting was called to order by Chairman Jonathan Quan at 12:00 PM.

II. PROOF OF DUE NOTICE OF MEETING

Chairman Quan noted that public notices of the meeting were published pursuant to the Open Government Law and are included in the meeting packet.

III. DETERMINATION OF QUORUM

CLRC Administrative Support Lisa Ibanez called the roll.

CLRC Members:

Hon. Jonathan R. Quan, Present, Judiciary of Guam

Hon. Maria T. Cenzon, Present, Judiciary of Guam

Hon. Anita A. Sukola, (No response during roll call)

Atty. William Bucky Brennan, Present on Zoom, Chalan Pago

DOC Director Fred Bordallo or designee Maj. Antone F. Aguon, Present, Judiciary of Guam

Chief of Police Stephen Ignacio or Designee Lt Ron Taitano, (No response during roll call)

Atty Joseph B McDonald, Present, Judiciary of Guam

Atty. F. Randall Cunliffe, Present on Zoom, Tamuning

Mr. Monty McDowell, Present, Judiciary of Guam

Public Defender Stephen Hattori or Designee Dep. Dir. John Morrison, Present, Judiciary of Guam

Attorney General Douglas Moylan or Designee DAG Nathan Tennyson, Present on Zoom, Tamuning

Atty. Mike Phillips, (No response during roll call)

Ms. Valerie Reyes, (No response during roll call)

Atty. Christine Tenorio, Present on Zoom, Tamuning

Atty. Phillip Tydingco, Present, Judiciary of Guam

Ex-Officio, (Non-Voting Members)

Executive Director Andrew S. Quenga, Present, Judiciary of Guam

Compiler of Laws Geraldine Cepeda, Present, Judiciary of Guam

Attorney Kristine Borja, Present on Zoom

Attorney Valerie Nuesa, Present, Judiciary of Guam

Attorney Zachary Taimanglo, Present, Judiciary of Guam

Chairman Quan acknowledged a quorum present.

IV. DISPOSAL OF MINUTES: September 12, 2024

The minutes from the previous Plenary Meeting, September 12, 2024, was approved without objection.

V. OLD BUSINESS

A. Subcommittee Status Update and Report of the Executive Director.

Director Quenga provided an informational report.

- Welcomed Attorney Zach Taimanglo from the Public Defender and Attorney Valerie Nuesa from the Attorney General's Office who will be assisting the DOCO Subcommittee as ex-officio members. Welcomed to the CLRC Lisa Ibanez as CLRC Administrative Assistant and Attorney Gordon Anderson as a legal researcher. Thanked Attorney Brian Eggleston, who relocated from Guam, for his work with the Criminal Procedure Subcommittee.
- Provided a status update of Title 9 chapters that have been presented and completed or tabled, and chapters that have not been presented as shown in the PowerPoint presentation for Attachment. Out of 46 chapters, on 13 are pending review. Other chapters have been presented and completed or tabled in the first phase review.
- Advised the Commission that CLE credits will be available to attorney members for their work over the past year.

VI. NEW BUSINESS

A. Subcommittee on Crimes Against Persons: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

Subcommittee Chair Attorney McDonald presented redline markups of his Subcommittee's recommendations brought before the Commission at the last plenary meeting. Attorney McDonald's PowerPoint presentation is included as Attachment 1.

- 9 GCA Chapter 19. Assault, Reckless Endangering, Terrorizing.
 - § 19.50. Terroristic Conduct; Defined and Punished. Amend (a) as shown in Attachment 1, Slide 4.
 - Discussion: Remove the semicolon after "assembly" and replace with a comma. Compiler of Laws stated this should be a formal amendment to avoid interpretation issues.
 - § 19.81. Interfering with the Reporting of Family Violence; Defined & Punished. Amend (c) as shown in Attachment 1, Slide 5.
 - Discussion: Reduce offense level from felony to misdemeanor.
 - Amend 9 GCA § 30.300 (Interfering with the Reporting of Family Violence), which mirrors § 19.81. Amend (c) as shown in Attachment 1, Slide 7.
 - Discussion: Reduce offense level from felony to misdemeanor.
- 9 GCA Chapter 22. Kidnapping and Related Offenses.
 - § 22.20. Kidnapping; Defined & Punished. Amend (a)(2) as shown in Attachment 1, Slide 9.
 - Discussion: Replace "felony" with "crime." Attorneys Morrison and Cunliffe objected, citing concerns about over-broadening the statute. Attorney Tenorio stated this was her recommendation after surveying different jurisdictions that refer to crime instead of felony, also

difficult to charge kidnapping if not able to determine the felony someone is trying to commit.

- 9 GCA Chapter 25. Sexual Offenses.
 - § 25.10. Definitions. Add new (a)(12) and (a)(13) as shown in Attachment 1, Slide 11.
 - Discussion: New subsections add definitions of affinity and consanguinity.
- 9 GCA Chapter 25A. Solicitation of Children and Child Pornography.
 - § 25A102. Indecent Electronic Display to a Child. Amend (c) as shown in Attachment 1, Slide 13.
 - Discussion: Delete (c) and add back as a new § 25A106.
 - § 25A103. Electronic Enticement of a Child as a Third Degree Felony. Amend (a) and (d) as shown in Attachment 1, Slide 14.
 - Discussion: Delete (a)(1)(B). Delete (d) and add back as a new section 25A106.
 - § 25A104. Electronic Enticement of a Child as a Second Degree Felony. Amend (a) as shown in Attachment 1, Slide 15.
 - Discussion: Delete (a)(1)(B).
 - § 25A105. Electronic Enticement of a Child as a First Degree Felony. Amend (a) as shown in Attachment 1, Slide 16.
 - Discussion: Delete (a)(1)(B).
 - § 25A106. Add as a new section as shown in Attachment 1, Slide 17.
 - Discussion: Same language deleted from § 25A102(c) and § 25A103(d). However, replace "Section" with "Chapter."
- 9 GCA Chapter 26. Human Trafficking and Criminal Exploitation Act of 2009.
 - Chapter 26, Article 2 Prevention of Trafficking. Repeal Article 2 as shown in Attachment 1, Slide 19.
 - Discussion: Repeal Article 2 in its entirety. Provisions are not enforced or funded. Feds are very active in this. Attorney Tennyson requested more time to review this and asked to table this part. Attorney Tydingco noted this was AG generated legislation out of the "Blue House" case. Attorney Morrison noted that to his knowledge no crimes have been charged under this chapter. Judge Cenzone noted the Coalition Against Domestic Violence and Sexual Assault had federal funding and was to work with the AG's Office on human trafficking. She agreed with Attorney Tennyson looking at this. Chairman Quan tabled this recommendation.
 - § 26.41. Protection of Trafficking and Domestic Violence Shelters. Amend (a) as shown in Attachment 1, Slide 20.
 - Discussion: Amend (a) to delete "maliciously." Attorney McDonald noted maliciousness is not in the Model Penal Code. He noted that "knowingly" was initially proposed to be added, however, criminal negligence will encompass any higher mental state. Attorney Tennyson asked if we are conforming to the MPC. Chairman Quan responded "yes."
- 9 GCA Chapter 31. Offenses Against the Family.
 - § 31.30. Child Abuse; Defined & Punished. Amend (a) as shown in Attachment 1, Slide 22.
 - Discussion: Amend (a) to add new (a)(2) and (3), "willfully causes or permits any child to suffer" and "inflicts upon a child unjustifiable

physical pain or mental suffering." Amend (a)(2) to delete (B) "subjects that child to cruel mistreatment." Amend (a)(2)(C) to add "unreasonably causes or permits that child to be placed in a situation where his or her person or health may be endangered." Add a new subsection under (a)(2), "neglects that child." Attorney Tenorio noted that the proposed additions are from the California Penal Code or from New Jersey. Attorney Tennyson asked if there is a definition of "suffer" or boundary between criminal suffer and a punishment that the child does not like. Chairman Quan noted the same concern and stated that the new (a)(2) as too broad and conflicts with 9 GCA § 7.94, which allows spanking. Chairman Quan also noted new (a)(2) allows for justifiable physical pain. Chairman Quan proposed striking proposed (a)(2). The Subcommittee agreed to strike the proposed (a)(2).

- § 31.30. Add a new (d) as shown in Attachment 1, Slide 23.
 - Discussion: Attorney Tenorio noted this new subsection (d) is from the New Jersey code. Compiler of Laws Cepeda suggested replacing "in" with "of" after "consist." Chairman Quan asked if there is an issue involving Jehovah's Witnesses. Attorney Tenorio noted she did see such issues but this language does not prevent them from putting forth such a defense.

Chairman Quan called for a motion to approve the recommendations on §§ 19.50(a), 19.81(c), 25.10, 25A102-25A106. Approved without objection.

Chairman Quan called for a motion to approve § 22.20. Approved over objections by Attorneys Cunliffe, Morrison and Brennan.

Chairman Quan tabled the recommendation to repeal Article 2 of Chapter 26.

Chairman Quan called for a motion to approve the recommendations on §§ 26.41 and 31.30, noting that the recommendation on § 31.30(a)(2) was stricken. Approved without objection.

B. Subcommittee on Drugs and Other Criminal Offenses: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

Subcommittee Chair, Judge Maria T. Cenon presented DOCO's continuing review of 9 GCA Chapter 67 - The Guam Uniform Controlled Substances Act. Judge Cenon's PowerPoint presentation is included here as Attachment 2.

- Adult Drug Court judges are making internal drug court revisions. DOCO is looking at statutory changes.
- Regarding Article I, Definitions, no changes are recommended.
- With respect to Article 2, Standards and Schedules, and Article 3, Regulation of Manufacture, Distributions and Dispensing of Controlled Substances, we require the expertise and assistance of DPHSS to review and will ask the Director to designate someone to assist.

- Article 4, Offenses and Penalties, will get assistance from defense bar and prosecution as offenses and penalties are most prominent at adult drug court hearings. We see a lot of individuals who go through drug court successfully but are unable to pay fines that are not convertible to community service.

Chairman Quan called for a motion to approve the recommendation for no changes to Article I. Approved without objection.

C. Subcommittee on Crimes Relating to Property: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

Subcommission Chair, Attorney Phil Tydingco presented his Subcommittee's recommendations on 9 GCA Chapter 69 and 10 GCA Chapter 60. Attorney Tydingco's PowerPoint presentation is included here as Attachment 3.

- 9 GCA Chapter 69. Antitrust Law.
 - § 69.40. Criminal Penalty. Amend as shown in Attachment 3, Slide 4.
 - Discussion: Delete the last sentence in (a) and delete (b) in its entirety. Attorney McDonald asked why the statute of limitations is being reduced. Attorney Tydingco noted the general statute of limitations of three years for felonies should cover this unless policy reasons justify a longer period. Attorney Tydingco noted that certain financial paper crimes have a longer statute of limitation because of the difficulty in uncovering it and finding evidence but the Subcommittee wanted consistency with felony statute of limitations. He noted the only exceptions of rape and murder. Chairman Quan added official misconduct. Attorney McDonald noted this was only for antitrust which has never been charged.

Regarding (b), Attorney McDonald noted deletion removes the double jeopardy provision. Attorney Brennan stated that removal of (b) is consistent with the *Puerto Rico v. Sanchez Valle* case. Attorney Cunliffe stated our law says if you are convicted in federal court, you can't be convicted in Superior Court and federal law says if you're convicted in Superior Court, you can't be convicted in federal court. It restates the law that already exists. It is redundant.

- §§ 69.45 (Civil Penalty and Injunctive Enforcement), 69.50 (Judgment in Favor of Territory if Prima Facie Evidence), 69.55 (Limitation of Actions), 69.60 (Remedies Cumulative). Recommend recodifying these sections outside of the criminal code. Sections are for injunctions and permit civil lawsuits. Executive Director Quenga stated he will work with the Compiler of Laws to find the appropriate place in the civil code for these sections and report back.
- 10 GCA Chapter 60. Firearms.
 - § 60108. Same: Restrictions. Amend (b)(2) as shown in Attachment 3, Slide 11.
 - Discussion: Attorney Tydingco noted the amendment adds Compact of Free Association migrants. Attorney McDonald noted the language references a specific form that may change. He suggested adding "or equivalent." Attorney Tydingco agreed with more general language.

Attorney Cunliffe noted the statute used to apply only to U.S. citizens, which violated Supreme Court decisions which found that people lawfully allowed to be in the U.S. could lawfully bear arms. The statute was amended to apply to persons admitted under the Immigration and Nationality Act, which does not apply to COFA citizens who are legally allowed in the U.S. This amendment clarifies that the statute also applies to COFA citizens in Guam.

Chairman Quan suggested this recommendation be tabled to allow the Subcommittee to come back with appropriate language regarding a more general form. Attorney Tydingco agreed.

Chairman Quan asked for a motion to approve the amendments to § 69.40 and to move §§ 69.45, 69.50, 69.55 and 69.60 out of the criminal code. Attorneys McDonald and Tennyson objected to the amendment in § 69.40 shortening the statute of limitations. Motion carried notwithstanding the two objections.

D. Notice of next meeting: Thursday, February 6, 2025, Noon (Tentative)

Chairman Quan informed Members that the next Plenary meeting is tentatively scheduled for Thursday, February 6, 2025, at 12:00.

VII. Communications

None.

VIII. Public Comment

None.

IX. Adjournment


Chairman Quan adjourned the meeting without objection.

Respectfully submitted this 6th day of February, 2025.



Andrew S. Quenga, Executive Director

As set out above, the minutes of the December 3, 2024, meeting were approved by the CLRC at the February 6, 2025 meeting.



Magistrate Judge Jonathan R. Quan, Chairman

Date: 2/10/25

ATTACHMENT 1

SUBCOMMISSION ON CRIMES AGAINST PERSONS PRESENTATION



Crimes Against Persons Subcommittee
Criminal Law & Procedure Review Commission

Members and ex officio members

- GPD Chief Steve Ignacio
- GPD Lt. Ron Taitano
- Public Defender Steve Hattori
- Dep. Public Defender John Morrison
- Assistant Attorney General Christine Tenorio
- Magistrate Sean E. Brown
- Attorney Joseph B. McDonald

PRESENTATION OF STATUTES FOR AMENDMENT OR REPEAL

PRESENTATION BY J. MCDONALD
PLENARY MEETING
DEC. 3, 2024

Slide 1



RECOMMENDATIONS FOR AMENDMENT OR REPEAL AFTER FIRST PASS
TABLED SECTIONS FOR SECOND PASS

8TH PLENARY MEETING

Slide 2



CHAPTER 19: ASSAULT, RECKLESS ENDANGERING, TERRORIZING

**RECOMMENDED SECTIONS FOR
AMENDMENT AND REPEAL**

Slide 3



9 GCA § 19.50(a)

Recommendation:

Amend for punctuation clarification. Remove the semicolon and replace with a comma.

Note:

Compiler stated that this should be a formal amendment to avoid any interpretation issues.

Amendment:

§ 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.

Slide 4



9 GCA § 19.81(c)

Recommendation:

Amend to reduce offense level for interference to a misdemeanor.

Amendment:

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

...

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

Slide 5



CHAPTER 30: FAMILY VIOLENCE (PARALLEL EDIT TO 9 GCA § 19.81)

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 6



9 GCA § 19.81(c)

continued

Chairman Quan noted that 9 GCA § 30.300(c) (Interfering with the Reporting of Family Violence) has the same provision "interference with the report of family violence is a felony of the third degree". Needs to be consistent.

Recommendation:

Because 9 GCA § 30.300 covers the same offense, amend it accordingly:

§ 30.300. Interfering with the Reporting of Family Violence.

(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 this Chapter; 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.

Slide 7



CHAPTER 22: KIDNAPPING AND RELATED OFFENSES

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 8



9 GCA § 22.20

Recommendation:

Amend to replace “felony” with “crime” in subsection (a)(2).

Proposed Amendment:

§ 22.20. Kidnapping; Defined & Punished.

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

...

(2) to facilitate commission of any ~~felony~~ crime or flight thereafter;

...

Slide 9



CHAPTER 25: SEXUAL OFFENSES

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 10



9 GCA § 25.10

Amendment:

§ 25.10. Definitions.

(a) As used in this Chapter:

...

(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”) 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, such that, from a person, first degree consanguinity includes the person’s Parents and Children; second degree consanguinity includes the person’s Brothers, Sisters, Grand Children and Grandparents; third degree consanguinity includes the person’s Great Grandchildren, Great Grandparents, Uncles, Aunts, Nieces and Nephews; and fourth degree consanguinity includes the person’s Great Grandparents, Great Grandchildren, Great Uncles, Great Aunts, First Cousins, Grand Nephews, and Grand Nieces.

Slide 11



CHAPTER 25A: SOLICITATION OF CHILDREN AND CHILD PORNOGRAPHY

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 12



9 GCA § 25A102

Recommendation:

Amend by striking § 25A102(c).

Amendment:

§ 25A102(c) Indecent Electronic Display to a Child.

...

~~(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.~~

Slide 13



9 GCA § 25A103

Recommendation:

Amend by striking subsection (a)(1)(B) and subsection (d).

Amendment:

§ 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~~

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

...

~~(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.~~

Slide 14



9 GCA § 25A104

Recommendation:

Amend by striking subsection (a)(1)(B).

Amendment:

§ 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~~

...

Slide 15



9 GCA § 25A105

Recommendation:

Amend by striking subsection (a)(1)(B).

Amendment:

§ 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~~

...

Slide 16



9 GCA § 25A106

Recommendation:

Add this as a new section.

Note:

Compiler suggested adding a title to this new section.

New section:

§ 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.

Slide 17



CHAPTER 26: HUMAN TRAFFICKING AND CRIMINAL EXPLOITATION ACT

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 18



9 GCA §§ 26.20-26.24

Recommendation:

Repeal Article 2 in its entirety.

Repeal:

~~Chapter 26. Human Trafficking and Criminal Exploitation.~~

- ~~▲ Article 2. Prevention of Trafficking.~~
- ~~▲ § 26.20. Territorial Task Force for Prevention of Trafficking.~~
- ~~▲ § 26.21. Data Collection and Dissemination.~~
- ~~▲ § 26.22. Training.~~
- ~~▲ § 26.23. Public Awareness.~~
- ~~▲ § 26.24. Role on Non-Governmental Organizations.~~

Slide 19



9 GCA § 26.41(a)

Recommendation: amend statute for MPC mental state.

§ 26.41 (a) Any person who ~~maliciously or~~ with criminal negligence publishes, disseminates, or otherwise discloses the location of any trafficking victim, any trafficking shelter or domestic violence shelter or any place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking victim, trafficking shelter or domestic violence shelter, is guilty of a misdemeanor.

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CHAPTER 31: OFFENSES AGAINST THE FAMILY

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 21



Chapter 9 GCA § 31.30

Recommendation:

Amend by adding new provisions.

Amend § 31.30(a)

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

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

~~(2) willfully causes or permits any child to suffer;~~

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

~~(2)(4) 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 unreasonably 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.~~

Slide 22



Chapter 9 GCA § 31.30

continued

Add a new § 31.30(d):

(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.

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SECTIONS UNDER SECOND PASS

CH 93 CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT
§ 93.20. Criminal Sexual Conduct Assessment: Standardized Procedure
§ 93.30 Assessment Required for Convicted Felons and Criminal Sexual Conduct Offenders
93.35 Sentencing and Parole of Felons: Parole of Felons: Treatment and Testing Based Upon Assessment Required
93.50 Report to the Legislature

CH 89 CRIMES AGAINST MINORS AND SEX OFFENDER REGISTRY
§ 89.06 Failure to Appear for Registration, Absconding and Failure to Register
§ 89.08 Duties of the Guam Police Department
§ 89.03 Registration; Duty to Register

CH 31 OFFENSES AGAINST THE FAMILY
§ 31.65 Curfew Hours for Minors.
§ 31.70 Leaving Children Unattended or Unsupervised in Motor Vehicles

CH 25A SOLICITATION OF CHILDREN AND CHILD PORNOGRAPHY
§ 25A202 Possession of Child Pornography
§ 25A203 Dissemination of Child Pornography
§ 25A204 Production of Child Pornography
[New 25A definition of anus]

CH 22 KIDNAPPING AND RELATED OFFENSES
§ 22.20 Kidnapping; Defined and Punished

CH 19 ASSAULT, RECKLESS ENDANGERING
§ 19.70 Stalking

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ATTACHMENT 2

SUBCOMMISSION ON DRUGS & OTHER CRIMINAL OFFENSES PRESENTATION



REPORT OF THE SUBCOMMISSION ON DRUGS & OTHER CRIMINAL OFFENSES

December 3 , 2024

Members: Hon. Maria T. Cenzone (Chair), DOC Director Fred Bordallo; Atty Mike Phillips; Ms. Valerie Reyes; Geraldine A. Cepeda, Compiler of Laws; Hon. Elizabeth Barrett-Anderson (ex-officio); Atty Kat Siguenza (ex-officio); Atty Kristine Borja (ex-officio) Atty Zach Tamainglo (ex-officio); Atty Valerie Nuesa (ex-officio)

Slide 1



Review of 9 GCA Chapter 67 The Guam Uniform Controlled Substances Act

- Article I, Definitions: no changes recommended.
- Article 2, Standards and Schedules, and Article 3, Regulation of Manufacture, Distributions and Dispensing of Controlled Substances: will request the assistance of DPHSS to review.
- Article 4, Offenses and Penalties: will request assistance from the AG's and PD's CLRC Designees, or ex-officio members with prosecution and defense experience. Will also request representatives from the Probation and Parole divisions.

Slide 2

ATTACHMENT 3

SUBCOMMISSION ON CRIMES RELATING TO PROPERTY PRESENTATION



Report of the Subcommittee on Crimes Relating to Property

December 3, 2024

Members: Atty Phillip J. Tydingco (Chair),
Atty F. Randall Cunliffe, Mr. Monty McDowell,
Atty William B. Brennan

Slide 1



Preliminary Review Completed (by Chapter)

- 9 GCA Chapter 32 (Financial Exploitation of Elderly)
- 9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)
- 9 GCA Chapter 37 (Burglary)
- 9 GCA Chapter 40 (Robbery)
- 9 GCA Chapter 43 (Theft and Related Offenses)
- 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)
- 9 GCA Chapter 47 (Trademark Counterfeiting Act)
- 9 GCA Chapter 48 (Notification of Breaches of Personal Information)
- 9 GCA Chapter 70 (Miscellaneous Crimes)
- 10 GCA Chapter 60 (Firearms)
- 9 GCA Chapter 69 (Antitrust Law)

Slide 2



Items for Today

- 9 GCA Chapter 69 - Recommendations
- 10 GCA Chapter 60 - Additional Recommendations

Slide 3



9 GCA § 69.40 Criminal Penalty

~~(a) Any person in violation of §§ 69.15 or 69.20 of this chapter is guilty of a felony of the second degree. An indictment must be found or information or complaint filed within five (5) years from the date of the violation or from the date of the last overt act committed pursuant a conspiratorial plan.~~

~~(b) No criminal action may be brought against any person for the same violation for which such person has been convicted in a criminal proceeding for a violation of the Federal antitrust laws.~~

Slide 4



9 GCA §§ 69.45, 69.50, 69.55, 69.60

- Civil cause of action for injunctive and other relief and civil penalty
- Recommend recodifying outside of Crimes and Corrections Title
- This civil action is for violation of the anti-trust provisions of Title 9 GCA Chapter 69

Slide 5



9 GCA § 69.45.

Civil Penalty and Injunctive Enforcement.

(a) The Attorney General may bring an action for appropriate injunctive relief and civil penalties in the name of the people of Guam for a violation of this chapter. The trier of fact may assess for the benefit of the territory a civil penalty of not more than One Million Dollars (\$1,000,000) for each violation of this chapter when the violation is by an individual. If the violation is committed by a person other than an individual, then the trier of fact may assess for the benefit of the territory a civil penalty of not more than Fifty-Million Dollars (\$50,000,000) for each violation of this chapter.

Slide 6



9 GCA § 69.50

Judgment in Favor of Territory if Prima Facie Evidence

A final judgment or decree determining that a person has violated §§ 69.15 or 69.20 of this chapter in an action brought by the Attorney General under this chapter, other than a consent judgment or decree entered before any testimony has been taken, is prima facie evidence against that person in any other action against that person under the provisions of § 69.30 as to all matters with respect to which the judgment or decree would be an estoppel between the parties thereto. This section does not affect the application of collateral estoppel or issue preclusion.

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9 GCA § 69.55.

Limitation of Actions.

(a) An action under this chapter to recover a civil penalty is barred if it is not commenced within four (4) years after the claim for relief accrues.

(b) An action under this chapter to recover damages is barred if it is not commenced within four (4) years after the claim for relief accrues, or than one (1) year after the conclusion of any timely action brought by the Attorney General in whole or in part on any matter complained of in the action for damages, whichever is later.

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9 GCA § Section 69.60. Remedies Cumulative.

The provisions of this chapter are not exclusive. The remedies specified in this chapter for violation of any section of this chapter or for conduct proscribed by any section of this chapter are cumulative and shall be in violation or conduct provided for in any other law. Nothing in this chapter shall limit any other statutory or any common law rights of the Attorney General, or any other person. If any act or practice proscribed by this chapter is also the basis for a cause of action in common law or a violation of another statute, the person may assert the common law or statutory cause of action under the procedures and with the remedies applicable thereto.

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9 GCA § 69.70 Severability

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

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10 GCA Chapter 60. Firearms. § 60108. Same: Restrictions. Subsection (b)(2)

(b) No person shall be issued an identification card:

...

(2) Who is an alien, except temporary permits may be issued to aliens for use only at target ranges operated by persons possessing permits therefore and who are citizens, or only for use at authorized sporting events, and except for official representatives of foreign governments in their official capacities, and except for aliens "lawfully admitted for permanent residence," which shall mean the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed, as defined by the Immigration and Nationality Act § 101(a)(20), 8 U.S.C. § 1101(a)(20) or who enter the United States pursuant to an applicable Compact of Free Association ("COFA") between their country of citizenship and the United States. Proof of permanent residence shall be evidenced by presentation of an Alien Registration Card (also known as alien registration certificate, Form I-551 or Green Card). Proof of entrance under a COFA shall be evidenced by either (1) a completed CBP I-94 form related to their admission or (2) a copy of notation made in the Migrant's passport on admission under the applicable COFA; or

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