



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IN THE SUPREME COURT OF GUAM**

<b>RE:</b>	)	Supreme Court Case No. PRM06-006
<b>AMENDMENT OF</b>	)	
<b>MISCELLANEOUS RULE 7.1 OF</b>	)	
<b>THE LOCAL RULES OF</b>	)	<b>PROMULGATION ORDER NO. 06-006-19</b>
<b>PRACTICE FOR THE SUPERIOR</b>	)	
<b>COURT OF GUAM</b>	)	

In January 2008, Congress enacted the NICS Amendment Improvement Act (“NIAA”), which required that all states and territories allow persons with mental disabilities to petition for relief from their prohibiting data on file with the NICS. Specifically, NIAA requires that jurisdictions have a “Relief from Disabilities Program” which allows persons who have mental disabilities to petition for relief from their prohibiting data. Among the requirements of a Relief from Disabilities Program is that a jurisdiction, upon being made aware that a record no longer applies, must update, correct, modify, or remove the record from any database that the federal or local government maintains and makes available to the NICS, as well as notify the United States Attorney General that the record no longer applies.

On July 23, 2010, the Supreme Court of Guam adopted Promulgation Order No. PRM06-006-12, adopting Miscellaneous Rule 7.1 of the Local Rules of the Superior Court of Guam. Miscellaneous Rule 7.1 sets forth the procedures for Guam’s Relief from Disabilities Program. However, Miscellaneous Rule 7.1 does not require the updated information be corrected in NICS-accessible databases or that the United States Attorney General must be notified.

Therefore, to bring this rule into compliance with the NIAA and to make other appropriate amendments to Miscellaneous Rule 7.1, and under this court’s authority to “make and promulgate rules governing the administration of the judiciary and the practice and procedure in the courts of



**LOCAL RULES OF THE  
SUPERIOR COURT OF GUAM**

**RELIEF FROM DISABILITIES**

**MR 7.1. Relief from Disabilities.**

- (a) A person who has been involuntarily committed to a mental institution or otherwise formally adjudicated as mentally defective as defined in 27 C.F.R. § 478.11, may petition to the Superior Court of Guam for relief from the firearms prohibitions contained in 18 U.S.C. § 922 (d)(4), 18 U.S.C. § 922(g)(4), and 10 GCA § 60108(b)(4).
  - (1) The relief provided under this Rule shall only be from mental health adjudications or commitments which occurred within Guam.
  - (2) A Petition filed under this Rule must be served upon the Attorney General of Guam, who may object to and present evidence relevant to the relief sought by the Petitioner.
- (b) The Superior Court of Guam must consider the Petitioner's request for relief.
  - (1) In the case of a civil commitment, the Superior Court of Guam shall accept for filing in the Special Proceedings case in which the person was found to have a mental defect, without cost, a Petition for Relief from Disabilities under 18 U.S.C. § 922 (d)(4), 18 U.S.C. § 922(g)(4), and 10 GCA § 60108(b)(4).
  - (2) In the case of a criminal defendant who has put his mental state at issue, the Superior Court of Guam shall accept for filing in the underlying criminal case or cases in which the criminal defendant put his mental state at issue and a finding of defective mental state was found, without cost, a Petition for Relief from Disabilities under 18 U.S.C. § 922(d)(4), 18 U.S.C. § 922(g)(4), and 10 GCA § 60108(b)(4).
- (c) The court shall accord the petitioner all due process of law, including:
  - (1) Petitioner shall have an opportunity to submit evidence.
  - (2) Petitioner shall have the opportunity for a Judge of the Superior Court to review the evidence.
  - (3) Petitioner shall have a right to a record to be made of the matter, which shall be maintained for review.
- (d) Record of proceedings.
  - (1) The court must receive and consider a proper record of how the mental disability was imposed in the first place, which will be contained in the record of the case in which the disability arose.
  - (2) This must include but is not limited to
    - (A) the circumstances regarding the firearm disability;
    - (B) the Petitioner's record, including at a minimum, Petitioner's mental health and criminal history records; and
    - (C) Petitioner's reputation, which may be developed on the record, at a minimum, through character witness statements, testimony, or other character evidence.
- (e) The court must grant Petitioner's request for relief if, at the conclusion of the consideration of the evidence noted above, the court makes the following findings;

**LOCAL RULES OF THE  
SUPERIOR COURT OF GUAM**

- (1) the Petitioner will not be likely to act in a manner dangerous to public safety, and
  - (2) granting relief from disability will not be contrary to public interest.
- (f) If the court denies relief, the Petitioner may not petition again for relief under this Rule until one (1) year after the date of the judgment.
- (g) The Petitioner is entitled to *de novo* appellate review of a denied Petition in the Supreme Court of Guam.
- (1) the Supreme Court of Guam may but is not required to give deference to the decision of the Superior Court in denying the Petition.
  - (2) The Supreme Court of Guam has the discretion to receive additional evidence necessary to conduct an adequate review.
- (h) After a judgment granting restoration of rights under this Section has become final and the time period for appeal has passed without an appeal being filed, the Clerk of Court of the Superior Court shall, as soon as is practicable, but in no case later than ten (10) business days after the time period for appeal has passed without an appeal being filed, forward a copy of the judgment to the Marshal of the Court. The Marshal of the Court shall within fifteen (15) business days after receipt of the judgment revise the Petitioner's record in any information database that the Judiciary of Guam makes available to the National Instant Criminal Background Check System and shall notify the United States Attorney General for the purpose of reporting to the National Instant Criminal Background Check System that the basis for the disabilities imposed by 18 U.S.C. § 922(d)(4) and (g)(4) no longer applies.

**SOURCE:** New Rule MR7.1 adopted pursuant to Promulgation Order No. 06-006-19 (April 14, 2022).