INTRODUCTORY NOTE FOR TITLE 7 - JUDICIARY AND CIVIL PROCEDURE

2015 NOTE: The judicial branch of Guam was established on August 1, 1950 by the Organic Act of Guam, codified at 48 U.S.C. § 1424-1. The branch was reorganized pursuant to P.L. 12-085 (Jan. 16, 1974), known as the Court Reorganization Act, with appellate jurisdiction vested in a newly created the Supreme Court of Guam. However, after a legal challenge to P.L. 12-085, the Supreme Court of Guam was abolished when the U.S. Supreme Court determined that the Guam Legislature could not divest the District Court of Guam of appellate jurisdiction and transfer appellate jurisdiction to Supreme Court of Guam. *See Guam v. Olsen*, 431 U.S. 195 (1977). Subsequent amendments to the Organic Act authorized the Guam Legislature to create an appellate court, and in 1985, legislation was drafted to create Chapters 1 through 10 of Title 7 of the Guam Code Annotated. This draft legislation was eventually enacted into law by P.L. 21-147:2 (Jan. 14, 1993), known as the Frank G. Lujan Memorial Court Reorganization Act of 1992. Although P.L. 21-147:2 expressly stated that it was adding Chapters 1 through 10 of Title 7, the law itself enacted only Chapters 1 through 9. The provisions in the draft version of Chapter 10 were enacted as uncodified provisions; specifically, Sections 1 through 7 of P.L. 21-147.

Past print publications of the GCA included annotations from the 1985 draft legislation, which were not included in Bill 102, the draft legislation introduced to the 21st Guam Legislature that was eventually signed into law as P.L. 21-147. These annotations, designated "1985 Source" and "1985 Comment," have been retained as they provide background information as to the source and legislative drafting history.

2025 NOTE: Pursuant to 2 GCA § 1101, I Liheslatura/Liheslaturan Guåhan means the "Legislature"/"Guam Legislature."

CHAPTER 2
COURTS OF JUSTICE

§ 2101. Courts of Justice in General.
§ 2102. Administration of the Courts of Guam.
§ 2103. Authorization to Fund Operational Shortfalls.
§ 2104. Continuing Appropriation Authorization.
§ 2105. Annual Report on Grant Funding.

§ 2101. Courts of Justice in General.

(a) The Courts of justice of Guam shall consist of the Supreme Court of Guam and the Superior Court of Guam. The Supreme Court of Guam shall be the highest Court of Guam and shall have supervisory, but not administrative authority over the Superior Court of Guam and all other local courts in Guam in accordance with rules and regulations promulgated by the Supreme Court Judicial Council. The Supreme Court may, by rules of court, create such divisions of the Supreme and Superior Courts as may be desirable, and may designate which of the divisions of the Superior Court are to be courts of record and which shall be courts not of record; provided, however, that four (4) such divisions of the Superior Court shall continue, one being the Traffic Division, not a court of record; one being the Small Claims Division, not a court of record; a third being the Family Division, a court of record, and the fourth, being the Drug Court, a court of record. The Supreme Court of Guam and the Superior Court of Guam, except for the Traffic and Small Claims Divisions of the Superior Court, are courts of record.

(b) Whenever the term "courts of Guam" is used elsewhere in this Title, it shall refer only to courts established by the laws of Guam unless the District Court of Guam is specifically mentioned in connection therewith.

(c) Establishment of the Guam Veterans Treatment Court.

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(1) Legislative Findings and Intent. I Liheslaturan Guåhan recognizes that veterans, to include active, reserve and National Guard servicemembers, have provided or are currently providing an invaluable service to our country. In so doing, some may suffer the effects of, including but not limited to, post-traumatic stress disorder, traumatic brain injury, and depression; and may also suffer drug and alcohol dependency, or addiction and co-occurring mental illness and substance abuse problems. As a result of this, some veterans or active duty servicemembers come into contact with the criminal justice system and are charged with felony or misdemeanor offenses. There is a critical need for the criminal justice system to recognize that these veterans may be suffering from a mental illness as a direct result of their service to our country, and that appropriate judicial consideration and treatment should be provided to the veteran in the application of justice. Therefore, it is the intent of I Liheslaturan Guåhan to realize the establishment of a veterans' treatment court program which would benefit Guam's veterans, their families, and the island community.

(2) Establishment of a Guam Veterans Treatment Court. The Judicial Council of the Judiciary of Guam may establish, through a duly adopted resolution, a Guam Veterans Treatment Court program in accordance with the provisions contained in this Act. The Guam Veterans Treatment Court may be a separate court of record or a program of a specialized treatment court within the Judiciary of Guam.

(3) Schedule of Fees for the Guam Veterans Treatment Court. The Judicial Council may establish a fee schedule to supplement the cost for the conduct and operation of the Guam Veterans Treatment Court. The creation of such fees, if deemed necessary, shall be established in accordance with the Administrative Adjudication Act requirements as set forth in law.

(d) Establishment of the Guam Adult Reentry Court Program. The Judicial Council of the Judiciary of Guam may establish through a duly adopted resolution, a Guam Adult Reentry Court Program for eligible individuals who are sentenced to a term of imprisonment pursuant to Article 5 of Chapter 80, Title 9, Guam Code Annotated. The Judiciary of Guam, the Department of Corrections, and the Parole Board may enter into a memorandum of understanding for the purpose of implementing the Guam Adult Reentry Court Program, as set forth in the Guam Adult Reentry Court (GARC) Program 2016 Strategic Plan and the Planning and Implementation Guide. The GARC Program is intended to reduce recidivism, implement evidence-based practices, reduce prison overcrowding, and promote public safety. The Guam Adult Reentry Court may conduct hearings to determine eligibility and to oversee the participation of eligible parolees admitted into the Program. Participation in GARC Program shall be limited to those defendants who meet the requirements as promulgated by the Supreme Court of Guam. The Judiciary received a three-year federal grant for FY 2015 through FY 2018 to establish a Guam Adult Reentry Court Program (GARC). Nothing herein requires the Judiciary to implement GARC if it would result in a need for an increase in local funding for the program or impede the ability of judges to address current caseloads under current time restrictions or increase the need for additional judges at the court. The Judicial Council shall report annually to I Liheslatura regarding the performance measurement and program evaluation of this program, as set forth in the Guam Adult Reentry Court (GARC) Program 2016 Strategic Plan.

(e) Establishment of a Driving While Impaired (DWI) Treatment Court.

(1) The Supreme Court of Guam may establish a Driving While Impaired Treatment Court (DWI Treatment Court).

(2) Participation in the Driving While Impaired Treatment Court shall be limited to those defendants who meet the legal and clinical requirements in accordance with orders as promulgated by the Supreme Court of Guam.

(3) Nothing herein requires the Judiciary to implement a DWI Treatment Court if it would

(A) result in a need for an increase in local funding for the program or

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(B) impede the ability of judges to address current caseloads under current time restrictions or

(C) increase the need for additional judges at the court.

SOURCE: CCP § 51, as enacted by P.L. 12-085:2 (Jan. 16, 1974). Subsection (a) repealed and reenacted by P.L. 24-139:28 (Feb. 21, 1998)(*But see* Court Decisions annotation below). Subsection (c) added by P.L. 26-125:2 (Sept. 4, 2002), and repealed by operation of law on Sept. 30, 2004 pursuant to P.L. 26-125:9. Subsection (a) amended by P.L. 27-031:3 (Oct. 31, 2003). Subsection (c) added by P.L. 32-082:1 (Nov. 27, 2013) (originally designated as (d) and renumbered by the Compiler). Subsection (d) added by P.L. 34-081:2 (Feb. 10, 2018). Subsection (e) added by P.L. 34-107:2 (June 5, 2018) (originally designated as (d) and renumbered by the Compiler.

COURT DECISIONS: *Pangelinan v. Gutierrez*, 2000 Guam 11 ¶ 8 ("We find that Bill 495 [designated as P.L. 24-139] was pocket vetoed and that the Legislature's subsequent actions did not serve to ratify Bill 495."), *aff'd by Gutierrez v. Pangelinan*, 276 F.3d 539 (9th Cir. 2002), *cert. den.* 537 U.S. 825 (Oct. 7, 2002).

2018 NOTE: Subsection/subitem designations added pursuant to 1 GCA § 1606.

2014 NOTE: The creation of therapeutic drug courts in the Superior Court of Guam was established by P.L. 26-125:2 (Sept. 4, 2002) and provided as follows:

> (c) There is herein established within the Superior Court of Guam, a Drug Court which shall have jurisdiction over adult and juvenile offenders charged with drug offenses on Guam. The Drug Court shall have as its goal to provide therapeutic treatment and counseling to adult and juvenile offenders under its jurisdiction, to the greatest extent allowed by Guam law.

This provision was repealed by operation of law on Sept. 30, 2004 pursuant to P.L. 26-125:9. The drug court program continued, pursuant to Administrative Order 05-03 (Dec. 29, 2005), wherein the Supreme Court established the Juvenile and Adult Drug Courts as divisions of the Superior Court and as courts of record. The Supreme Court of Guam's authority to establish these divisions was granted by United States Public Law 108-378 (Oct. 30, 2004), which amended the Organic Act of Guam, and, *inter alia*, invested the Supreme Court of Guam with supervisory jurisdiction over the Superior Court and granted the Supreme Court of Guam authority to create divisions of the Superior Court.

2007 COMMENT: In United States Public Law 108-378 (Oct. 30, 2004), established the Supreme Court as the highest court with supervisory jurisdiction over the Superior Court and all other courts of the Judicial Branch of Guam. This law also repealed the 15 year supervisory period by the Ninth Circuit Court of Appeals and provided for appeals directly to the United States Supreme Court.

1985 COMMENT: In 1974, P.L. 12-85 abolished the jurisdiction of the Appellate Division of the District Court of Guam and transferred all local jurisdiction, except for income tax cases placed in the District Court by the Organic Act and cases filed on Guam but arising under the laws of some other jurisdiction, with the Superior Court. What was the Island Court was continued as the Superior Court, but as a court of general jurisdiction. However, the U.S. Supreme Court, in the case of *Territory of Guam v. Olsen*, (1977) 431 U.S. 195, 97 S. Ct. 1774, held that the Legislature of Guam had no power to abolish the appellate jurisdiction of the District Court of Guam. The case did not address the issue of transferring original jurisdiction from the District Court to the Superior Court. The transfer of all local, original jurisdiction to the Superior Court has remained unchallenged.

The proposed Guam Constitution, which failed of ratification in August of 1978, provided for a Supreme Court of Guam as the final appellate court on Guam. The relationship between that court and the Federal court system was to be established by Congress. Because the Constitution failed and the proposed court system never came into being.

Congress, in the Omnibus Territories Act of 1984 (HR 5561) (Oct. 5, 1984), amended the Organic Act (48 U.S.C.A. § 1424-1 through 1424-4) to permit the creation of "a court of appeals" for Guam. Appeals from that court are to be handled in the same manner as are appeals from the highest court of a state, but for the first fifteen years of the new court's operation appeals will go to the Ninth Circuit Court of Appeals instead of directly to the Supreme Court of the United States, but only through a Writ of Certiorari. The route of "certiorari" was chosen because, ultimately, the relationship between the local courts of Guam and those of the United States will be the same as if Guam were a state. But, Congress determined that during the first 15 years of the court's existence, the Ninth Circuit, having experience with Guam's cases, should continue hearing appeals as a transition measure. Still, the scope of their review will be restricted in that appeals from the Supreme Court will be at the discretion of the Ninth Circuit, not by right as was the case before the establishment of the Supreme Court of Guam.

The purpose of this Chapter and of the whole Act is to create not only a Supreme Court of Guam for appeals and review, but to create a judicial system with the Supreme Court at its head. Therefore, the Supreme Court of Guam will

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handle all of those matters customarily handled by state supreme courts, including attorney admission and discipline, court rules and court administration. Thus, administrative functions of the courts, formerly lying either with the Judicial Council or the District Court of Guam, are placed with the Supreme Court of Guam.

COMMENT: Public Law 12-85 amended this Section and other sections of this Chapter to reflect the establishment of the Supreme Court of Guam. As noted above, the U.S. Supreme Court declared that Guam could not create a Supreme Court to hear appellate cases. However, the Omnibus Territories Act of 1984 permits the creation of the Supreme Court of Guam. It also continues the District Court as part of the Guam judicial structure and permits the legislature to not only remove local jurisdiction from that court, but also add local, original, jurisdiction to it.

Section 52 CCP, abolishing ecclesiastical tribunals, is deleted from this Chapter because there are now no such tribunals to be abolished, rendering such section obsolete. In any event, § 5 of the Organic Act (Bill of Rights) would prohibit ecclesiastical tribunals from having any secular jurisdiction.

§ 2102. Administration of the Courts of Guam.

(a) The Judicial Council shall administer the operations of the Supreme Court and Superior Court and shall promulgate rules, regulation and policy governing personnel, procurement, finance and travel for the Judicial Branch. The Judicial Council shall adopt a unified pay schedule for the employees of the Judicial Branch consistent with the Hay Study and Unified Pay Schedule adopted in 1991, as amended. The Judicial Council shall recommend and submit, under the signature of its Chairperson, the annual budget of the Judicial Branch to I Liheslaturan Guåhan by the first day of May of each year.

(b) The Judicial Council shall promote early childhood development and literacy to parents and guardians of children from birth to eight years of age, in consultation with the Department of Public Health and Social Services.

SOURCE: Added by P.L. 24-139:25 (Feb. 21, 1998). Added, as amended, by P.L. 27-031:4 (Oct. 31, 2003) to reflect the unified court structure. Amended by P.L. 38-049:26 (Aug. 18, 2025) effective within one year upon enactment pursuant to P.L. 38-049:29.

2025 NOTE: Subsection designations added pursuant to 1 GCA § 1606.

COURT DECISIONS: *Pangelinan v. Gutierrez*, 2000 Guam 11 ¶ 8 ("We find that Bill 495 [designated as P.L. 24-139] was pocket vetoed and that the Legislature's subsequent actions did not serve to ratify Bill 495."), *aff'd by Gutierrez v. Pangelinan*, 276 F.3d 539 (9th Cir. 2002), *cert. den.* 537 U.S. 825 (Oct. 7, 2002).

§ 2103. Authorization to Fund Operational Shortfalls.

The Unified Judiciary of Guam is authorized to fund any operational shortfall from any fund sources under its control, excluding funds held in trust. Transfers from the Judicial Building Fund must be consistent with the covenants and provisions of the loan documents between the Unified Judiciary and its lender.

SOURCE: Added by P.L. 38-060:XII:36 (Sept. 29, 2025).

§ 2104. Continuing Appropriation Authorization.

Notwithstanding any other provision of law, the allotted but unexpended balance of funds appropriated to the Unified Judiciary of Guam each fiscal year shall not lapse and shall continue to be available until fully expended.

SOURCE: Added by P.L. 38-060:IV:11 (Sept. 29, 2025).

§ 2105. Annual Report on Grant Funding.

(a) The Judiciary of Guam shall transmit to I Liheslaturan Guåhan an annual report on or before February 1 of each year detailing all federal and local grant funding received during the preceding fiscal year. The report shall include, but not be limited to:

(1) the name and source of each grant received;

(2) the total amount of funding awarded and received;

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(3) a description of the purpose or program supported by each grant;

(4) the amount expended from each grant during the reporting period;

(5) any unexpended balances or carryover amounts; and

(6) the agency or office responsible for the administration and oversight of each grant; and

(b) The report shall be made publicly accessible through the Judiciary's website.

SOURCE: Added by P.L. 38-136:XII:39 (Aug. 28, 2026).

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