

CHAPTER 2  
COURTS OF JUSTICE

§ 2101. Courts of Justice in General.

§ 2102. Administration of the Courts of Guam.

**§ 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) 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 subsection (c) expired on Sept. 30, 2004. See note.]**

**SOURCE:** CCP § 51, as enacted by 12-85, modified to reflect the Supreme Court and Organic Act of Guam as amended by the Omnibus Territories Act of 1984. Subsection (a) repealed and reenacted by P.L. 24-139:28. Subsection (c) added by P.L. 26-125:2 to create a Drug Court. Substantive changes to put this into effect have been made in Titles 9 (Ch. 67 and 80) and Title 17 (Ch. 48). Subsection (a) amended by P.L. 27-31:3 to reflect unified court structure.

**NOTE:** The added subsection (c) expired on Sept. 30, 2004 pursuant to P.L. 26-125:9. However, the Supreme Court in Administrative Order 05-03 (Dec. 29, 2005)

## 7 GCA CIVIL PROCEDURE CH. 2 COURTS OF JUSTICE

established the Juvenile and Adult Drug Courts as Divisions of the Superior Court and as courts of record.

**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 (HR5561) (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 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.

**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.

**COURT DECISIONS:** The Supreme Court, in *Pangelinan v. Gutierrez*, 2000 Guam 11 (2000); affirmed by the Ninth Circuit as 276 F.3d 534 (1/10/2002), held P.L. 24-

**7 GCA CIVIL PROCEDURE**  
**CH. 2 COURTS OF JUSTICE**

139 not to have existed at all as a public law because it was “pocket vetoed” by the Governor. Therefore, subsection (a) reverts to its original form since there were no prior or later amendments to this subsection. *Aff’d*, U.S. Supreme Court by denial of Petition for Certiorari, 10/7/2002.

**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.**

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* [the Legislature] by the first day of May of each year.

**SOURCE:** Added by P.L. 24-139:25. Added, as amended, by P.L. 27-31:4 to reflect the unified court structure.

**COURT DECISIONS:** The Supreme Court, in *Pangelinan v. Gutierrez*, 2000 Guam 11 (2000); affirmed by the Ninth Circuit as 276 F.3d 534 (1/10/2002), held P.L. 24-139 not to have existed at all as a public law because it was “pocket vetoed” by the Governor. Therefore, because this section was added by what is no longer a public law, the effect of the decision is that this section ceases to exist. *Aff’d*, U.S. Supreme Court by denial of Petition for Certiorari, 10/7/2002.

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