

7 GCA CIVIL PROCEDURE
CH. 7 POWERS OF JUDGES, JUSTICES AND OF THE SUPERIOR COURT

CHAPTER 7
POWERS OF JUDGES, JUSTICES AND OF
THE SUPERIOR COURT

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§ 7101. Powers of a Single Judge.

Except as otherwise provided by law the judicial power of the Superior Court with respect to any action or proceeding may be exercised by a single Judge, who may preside alone and hold a regular or special session of the court at the same time as other sessions held by other Judges.

1985 SOURCE: CCP § 86.

§ 7102. Sessions of the Superior Court.

The Superior Court shall always be open on court days. It shall hold its regular sessions in *Hagåtña* at times determined by the rules of the Court. Special sessions may be held at such places as the nature of the

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business may require and upon such notices as the Court orders, pursuant to rules prescribed by the Supreme Court.

SOURCE: Amended by P.L.24-139:18. Amended by P.L. 27-31:21.

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, this section reverts to the way it read upon its original enactment as there were no amendments prior to P.L. 24-139. The main difference is to place the power to establish rules in the Supreme Court.

1985 SOURCE: CCP § 87 modified to subject the power to rules of the Supreme Court.

§ 7103. Court Administrator.

(a) Superior Court Administrator.

The Presiding Judge shall appoint a Superior Court Administrator, who shall serve at his or her pleasure. The Court Administrator shall be responsible for the general supervision of all personnel of the Superior Court other than Judges and their immediate staff; the buildings and grounds assigned to the Superior Court, and any property in the custody of the Court used for the Court’s operation, and shall be responsible for other matters assigned to him or her by the Presiding Judge. The salary of the Court Administrator shall be fixed by the Judicial Council pursuant to general Personnel Rules covering compensation. The Court Administrator may appoint and assign duties to deputies and assistants in such number as may be approved by the budget and necessary for operations. The appointment, assignment, removal and salaries of such deputies and assistants shall be governed by the applicable Personnel Rules and Regulations governing employment practices within the Judicial Branch as promulgated by the Judicial Council.

(b) Supreme Court Administrator. The Chief Justice shall appoint a Supreme Court Administrator, who shall serve at his or her pleasure. The Court Administrator shall be responsible for the general supervision of all personnel of the Supreme Court other than Justices and their immediate staff, and any property in the custody of the Court used for the Court’s operation, and shall be responsible for other matters assigned to him or her by the Chief Justice. The salary of the Court Administrator shall be fixed by the Judicial Council pursuant to general Personnel Rules covering compensation. The Court Administrator may appoint deputies and assistants in such number as may be approved by the budget and necessary for operations. The appointment, assignment, removal and salaries of such deputies and assistants shall be governed by the applicable Personnel Rules

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and Regulations governing employment practices within the Judicial Branch as promulgated by the Judicial Council.

(c) Administrator of the Courts. The Judicial Council shall have the authority to appoint an Administrator of the Courts, who shall be responsible for the general supervision of all personnel of the Superior Court of Guam and the Supreme Court of Guam and all its divisions except for Judges, Justices, Referees, and their immediate staff. The salary of the Administrator of the Courts shall be fixed by the Judicial Council pursuant to general Personnel Rules covering compensation. The Administrator shall have all other authorities assigned to the Superior Court Administrator and the Supreme Court Administrator described in Subsections (a) and (b) of this Section and may be assigned other duties as necessary by the Judicial Council. Upon the appointment of the Administrator of the Courts by the Judicial Council, the legal authority creating the positions of the Superior Court Administrator and the Supreme Court Administrator shall expire and the position shall cease to exist. The Administrator of the Courts may appoint deputies and assistants in such number as may be approved by the budget and necessary for operations. The appointment, removal and salaries of such deputies and assistants shall be governed by the applicable Personnel Rules and Regulations governing employment practices within the Judicial Branch as promulgated by the Judicial Council.

SOURCE: Amended by P.L. 23-86:2 (4/29/96). Amended by P.L. 27-31:22.

1985 SOURCE: New section.

1985 COMMENT: This Section is added to conform to the current operating structure of the Superior Court. Court Administrators, having administrative control over the non-judicial matters of the court, are well established in courts of the several states. Recognition has been given in this Section, also, to the fact that the Judiciary operates under personnel rules applicable to it.

§ 7104. Clerks.

(a) Superior Court Clerk. The Presiding Judge shall appoint a Superior Court Clerk who shall be subject to removal by him or her. The Superior Court Clerk may assign deputies and assistants in such numbers as are approved by the budget and necessary for the daily operations of the Superior Court. Such deputies and assistants shall be subject to removal by the Superior Court Administrator pursuant to the Personnel Rules and Regulations of the Judicial Council governing employment practices within the Judicial Branch promulgated by the Judicial Council. The salaries of the Superior Court Clerk and his or her deputies and assistants shall be fixed pursuant to a general Personnel Rule covering compensation.

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(b) Supreme Court Clerk. The Chief Justice shall appoint a Supreme Court Clerk who shall be subject to removal by him or her. The Supreme Court Clerk may appoint, with the approval of the Judicial Council, such deputies and assistants in such numbers as are necessary for the daily operations of the Supreme Court. Such deputies and assistants shall be subject to removal by the Supreme Court Clerk, pursuant to a Personnel Rules covering compensation. The salaries of such deputies and assistants shall be fixed pursuant to a general Personnel Rules covering compensation. The appointment and removal of the Supreme Court Clerk and of such deputies and assistants shall be subject to the applicable Personnel Rules and Regulations governing employment practices within the Judicial Branch promulgated by the Judicial Council.

SOURCE: Amended by P.L. 23-86:2 (4/29/96). Amended by P.L. 24-139:19. Amended by P.L. 27-31:23.

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, this section reverts to the way it read after its amendment by P.L. 23-86:2.. The main difference is to delete references to the power of the Judicial Council.

1985 SOURCE: CCP § 88, modified.

1985 COMMENT: Changes in recognition of fact that the Judicial Commission does not actually supervise the courts. The Court Administrator, as the chief administrator is the one charged with determining the number of deputy clerks and assistants that are required. Of course, this number will be limited by the budget. The final sentence is added to conform to present law and practice wherein the Judiciary has passed quasi-Civil Service personnel rules.

COMMENT: (1993) The 1992 Act separated the Supreme Court Clerk from the Superior Court Clerk and made the decision as to the number of deputy clerks a matter for the Clerk of the respective court with the concurrence of the Presiding Judge or Chief Justice, respectively.

§ 7105. Proceedings and Records Public.

The sessions of every court shall be open to the public, except as otherwise provided by law. The records of every court of justice, except the Family Court when sitting under the Juvenile Court Law (9 GCA Ch. 5), shall be public records and shall be open to the inspection of any resident under the supervision of the clerk of the court during business hours, unless restricted by special order of the court, or of any party in interest.

1985 SOURCE: CCP § 131 as modified.

1985 COMMENT: This Section has been law since the first enactment of the Code of Civil Procedure.

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This Section has excepted from its provisions the records of the Juvenile Division of the Superior Court, as there are special restrictions upon Juvenile Records covered in Chapter 5 of Title 19 of this Code. Also, the court is permitted to close records to the general public by special order. Obviously, parties to the action will have access to the records as provided by the applicable Rules of Procedure.

§ 7106. Civil Liability of a Judge or Justice.

No Judge or Justice shall be liable in a civil action for damages by reason of any judicial action or judgment rendered by him or her.

1985 SOURCE: § 132 CCP, as modified.

1985 COMMENT: The former phrase "in good faith" does not give complete immunity required of judges, and permitted by the Supreme Court of the U.S. The phrase "in good faith" has permitted, in other places, suits against judges if allegations of malice or improper interest are found in the complaint. This phrase, therefore, does not give the protection against actions which must be defended and is deleted here. The American Bar Association recommends the section as it is written here.

§ 7107. Incidental Powers and Duties of Courts.

Each of the courts of Guam shall have power:

- (a) To preserve and enforce order in its immediate presence;
- (b) To enforce order in the proceedings before it, or before all persons empowered to conduct a judicial investigation under its authority;
- (c) To provide for the orderly conduct of proceedings before it or its officers;
- (d) To compel obedience to its judgments, orders and process, and to the orders of a Judge out of court in an action or proceeding pending therein;
- (e) To control in furtherance of justice, the conduct of its ministerial officers and of all other persons in any manner connected with a judicial proceeding before it in every matter appertaining thereto;
- (f) To compel the attendance of persons to testify in an action or proceeding pending therein in the cases and manner provided in this Title and in Titles 8 [Criminal Procedure] and 19 of this Code (Family Court Law);
- (g) To administer oaths in actions or proceedings pending therein, and in all other cases where it may be necessary in the exercise of its powers and duties; and

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(h) To amend and control its process and orders so as to make them conformable to law and justice.

1985 SOURCE: CCP § 133 as amended by P.L. 13-187, Section 24.

1985 COMMENT: Includes reference to new Title designation for the Family Court Act (Title 19).

§ 7108. Adjournment in Absence of Judge.

If no Judge attends on any day appointed for a session of any court, or on the day to which it may have adjourned, before noon, the clerk may adjourn the court until the next day and so on from day to day, until the Judge attends or by written order directs the court to be adjourned to a day certain fixed in the order, in which case the clerk shall so adjourn it. In case the Judge is absent for more than ten (10) days or is disabled or disqualified from acting the clerk shall forthwith notify the Chief Justice, or Presiding Judge, or next senior Judge, as appropriate.

§ 7109. Seals of Court.

Both the Supreme and Superior Courts shall have seals designed pursuant to the provisions of Title 1 of this Code, which shall be kept by their clerks. The seal of the court need be affixed only to writs and process, to certificates of probate of a will or the appointment of an executor, administrator or guardian and to the authentication of a copy of a record or other proceeding of the court or of an officer thereof, or of a copy of a document on file in the office of the clerk.

1985 SOURCE: CCP § 135, modified to refer to the Presiding Judge.

§ 7110. Judges' Powers in Chambers.

A Judge of the Superior Court may hear matters in chambers as permitted by law or the rules of court.

SOURCE: New section: to refer to both law and rules of court.

§ 7111. Powers of Judicial Officers Relative to the Conduct of Proceedings.

Every judicial officer shall have the power:

(a) To preserve and enforce order in his or her immediate presence and in proceedings before him or her, when he or she is engaged in the performance of official duty;

(b) To compel obedience to his or her lawful orders as provided in this Title;

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(c) To compel the attendance of persons to testify in a proceeding before him or her, in the case and manner provided in this Title; and

(d) To administer oaths to persons in a proceeding pending before him or her and in all other cases where it may be necessary in the exercise of his or her powers and duties.

1985 SOURCE: CCP § 177; modified to make reference to new Title designations.

§ 7112. Power to Punish for Contempt.

For the effectual exercise of the powers conferred by § 7111, a judicial officer may punish for contempt in the cases provided in this Title.

1985 SOURCE: CCP § 178 modified to refer to new Title designations. "Title" changed to "Code".

CROSS-REFERENCES: See Chapter 34 of this Title.

§ 7113. Power to Administer Oaths and Take Acknowledgments.

Every judicial officer and every clerk of court and his or her deputies shall have power to administer oaths and to take acknowledgments of deeds and other written instruments.

SOURCE: CCP § 179 unchanged.

1985 COMMENT: This, and the preceding two sections, refer to "judicial officers" and were found in Chapter 3 of Title 2 of the Code of Civil Procedure.

§ 7114. Proceedings, When Not Affected.

No proceeding in any court of justice, in an action pending therein, shall be affected by a vacancy in the office of all or any of the Judges thereof.

1985 SOURCE: CCP § 184 unchanged.

§ 7115. Proceedings to be in the English Language.

Every written proceeding in a court of justice of Guam shall be in the English language and judicial proceedings shall be conducted, preserved and published in no other; provided, however, that with the consent of all parties, counsel and the court, proceedings may be conducted in the Chamorro language.

SOURCE: CCP § 185 changed to allow proceedings in the Chamorro Language when all parties consent. (1992 change)

CROSS-REFERENCES: Compare 1 GCA § 706 on the official languages of Guam.

§ 7116. Abbreviations and Figures.

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Such abbreviations as are in common use may be used, and numbers may be expressed by figures or numerals in the customary manner.

1985 SOURCE: CCP § 186 unchanged.

§ 7116.1. Expedited Schedule of Discovery.

At the first hearing before the Superior Court in any action brought under the Every Child is Entitled to an Adequate Public Education Act, the court may order an expedited schedule of discovery and pleading, and an expedited schedule and trial date for the case, if requested by any party.

SOURCE: Added by P.L. 28-045:14, effective, October 1, 2007, per P.L. 28-045:23.

§ 7117. Means to Carry Jurisdiction into Effect.

When jurisdiction is by law conferred on a court or judicial officer, all the means necessary to carry it into effect are also given; and in the exercise of this jurisdiction, if the course of the proceeding be not specifically pointed out by law or by rules of procedure adopted by the Supreme Court, any suitable process or mode of proceedings may be adopted which may appear most conformable to the spirit of this Title.

1985 SOURCE: CCP § 187 unchanged.

1985 COMMENT: See *Blas v Talavera*, (1963) 318 F.2d 617 regarding judicial notice.

§ 7118. Disposal of Money Deposited with the Court.

When any money is deposited with the clerk of any court pursuant to any action or proceeding in such court, or pursuant to any order, decree or judgment of the court, and to which the government of Guam is to have title, or when any money is to be paid to the Treasurer of Guam pursuant to any provision of this Title, such money shall be forthwith deposited with such Treasurer and the duplicate receipt of the Treasurer thereof shall be filed with the Director of Administration and evidence of such duplicate receipt that has been so filed shall be necessary before the clerk or party required to deposit such money shall be entitled to a discharge of the obligation imposed upon him or her to make such deposit. When any money so deposited is to be withdrawn or paid out, the order directing such payment or withdrawal shall require the Director of Administration to draw his or her warrant therefor and the Treasurer to pay the same, subject to the approval of the Governor of Guam of such warrant.

Whenever any funds are deposited with the clerk of a court pursuant to any action or proceeding in such court, or pursuant to any order, decree or judgment of such court, and the title to the money does not rest in the

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government of Guam, the procedure set forth in 672, 673 and 674 of the Code of Civil Procedure shall be followed.

This section shall not be deemed to repeal or affect in any way § 5311 of this Title dealing with fees payable to the Territorial Law Library, nor with any other law which specifically allocates fees to any other source.

1985 SOURCE: CCP § 188 as modified.

1985 COMMENT: This Section is retained from the former Civil Procedure Code with the additional paragraph making reference to fees payable to the Territorial Law Library. The Territorial Law Library was created well after the adoption of this Section (25 years after) and one must assume that any reference to fees in the Territorial Law Library Act would supersede this Section. Since this Section is being re-enacted as part of a separate Title to a new Code, it is thought appropriate to add the proviso so that this Section, as re-enacted, will not affect or supersede the intent of P.L. 14-155. This section should not affect the recently passed law dealing with the Judiciary Building Fund.

§ 7119. Referees.

The Presiding Judge shall nominate Referees for approval by the Judicial Council as provided in this Title, the Probate Code (Title 15), Title 19 (Family Court Law) and the applicable rules of procedure, which Referees may hear cases in more than one division or Court of the Superior Court of Guam and such Referees are judicial officers pursuant to this Chapter.

SOURCE: Amended by P.L. 23-86:3 (4/29/96). Amended by P.L. 27-31:24.

1985 SOURCE: CCP § 190 as modified.

1985 COMMENT: The only modification of this Section is the reference to referees as judicial officers, a reference which is implied in the Code of Civil Procedure. Also reference to Title 19 is made as this is the new location of the law on the Family Division of the Court.

§ 7119.1. Same: Assigning Referees.

The Presiding Judge may assign referees to hear cases in more than one (1) division or court of the Superior Court.

SOURCE: Added by P.L. 24-135:4. ~~Amended by P.L. 24-139:27.~~

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, this section reverts to the way it read upon its original enactment as there were no amendments prior to or since P.L. 24-139. No change was made as the two public laws were identical.

§ 7120. Copying and Disposition of Court Records.

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(a) The clerk of the Superior Court and of the Supreme Court, respectively, may cause any record, paper or document in his care and custody, to be photographed, microphotographed, or otherwise reproduced on film or in computerized form. The storage media shall be durable and the document as recorded shall be one which accurately reproduces the original thereof in all material details.

(b) Such photograph, or microphotograph or reproduction shall be deemed to an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification, facsimile, or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript, exemplification, facsimile, or certified copy thereof shall for purposes recited herein, be deemed to be a transcript, exemplification, facsimile, or certified copy of the original record.

(c) Such photograph, or microphotograph or reproduction shall be placed in safe conveniently accessible files, or in safe computer storage, and the clerk shall make provisions for preserving the same, and for the public's examining, copying and using the same. The original record, paper or document shall not be destroyed but shall be preserved.

(d) The Judicial Council shall promulgate regulations to effectuate this section; provided, that the existing Rule 93 of the Guam Rules of Civil Procedure shall be deemed to be in compliance with this section and no additional rules need to be promulgated to enforce this section.

(e) (1) When the clerk so establishes computerized storage of records and papers not originally kept in computerized form, he shall keep a parallel microfilm or photographic storage of the same records until such time as established national standards, properly followed, will give the same degree of permanency to the electronic storage as is required for the microfilmed records of a similar category.

(2) The documents retrieved from electronic storage of non-electronic originals shall be deemed to be as admissible as records reproduced from any other means of storage provided for in this section.

SOURCE: Added by P.L. 22-124:3 (5/29/94).

COMMENT: Section 1 of P.L. 22-124 enacted the following Legislative Findings & Intent::

The Legislature finds that there is a need to enact legislation that would authorize the clerks of the Superior Court and of the Supreme Court of Guam to photograph, microfilm or otherwise reproduce on film their court's records. The Legislature further finds that the photographed, microfilmed or reproduced film should be deemed to be

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an original record for all purposes, including introduction in evidence in all courts or administrative agencies. More importantly, the Legislature finds that the microfilming and disposition of court records constitute efficient management methods of creating, utilization, maintenance, retention, preservation and disposal of judicial records. The Legislature finally finds that the records photographed, microfilmed or reproduced on film shall be placed in safe, conveniently accessible, files, and that the clerks shall make provision for preserving, examining and using the same.

§ 7121. Operations Fund for Superior Court and Supreme Courts of Guam.

(a) There is hereby created a special fund to be known as the ‘Superior Court Operations Fund’ (“Fund”), such fund to be administered by the Court Administrator of the Superior Court of Guam. All money appropriated for the operation of the Superior Court of Guam shall be paid directly to the Fund and disbursed by the Superior Court of Guam. The certifying officer of the Fund shall be the Court Administrator of the Superior Court of Guam.

(b) The Superior Court of Guam shall contribute from the Superior Court Operations Fund to the Government of Guam Retirement Fund for the government’s share of the costs of the retirement benefits to the Superior Court of Guam’s employees.

(c) There is hereby created a special fund to be known as the ‘Supreme Court Operations Fund’ (“Fund”), such fund to be administered by the Court Administrator of the Supreme Court of Guam. All money appropriated for the operation of the Supreme Court of Guam shall be paid directly to the Fund and disbursed by the Supreme Court of Guam. The certifying officer of the Fund shall be the Court Administrator of the Supreme Court of Guam.

(d) The Supreme Court of Guam shall contribute from the Supreme Court Operations Fund to the Government of Guam Retirement Fund for the government’s share of the costs of the retirement benefits to the Supreme Court of Guam’s employees.

SOURCE: Added by P.L. 24-59:IV:19.
