
AN ACT

To amend Title 17 to make certain amendments to the Penal Code, and for other related purposes.

THE PEOPLE OF PALAU REPRESENTED IN THE OLBIIIL ERA KELULAU DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The Olbiil Era Kelulau finds that the new Penal
2 Code enacted into law was a massive improvement to the outdated Title 17, and, as the
3 panel of experts from the United States noted, it is the best Penal Code in the world.
4 That said, the Olbiil Era Kelulau recognizes there are minor improvements to be made
5 to the Penal Code. This bill proposes to:

6 1. Eliminate indefinite term sentences. At the Penal Code Conference, many
7 people expressed concern that the judges would no longer impose the period of
8 imprisonment for a crime. Under the old system, for each crime, the judge would
9 determine the period of incarceration. Under the new system, the judge imposes the
10 maximum term, and then the Parole Board decides the minimum term. The defendant
11 serves the maximum sentence, but is up for parole when they get to the minimum
12 sentence imposed by the Parole Board. This bill eliminates this two-tiered process so
13 that judges will continue to decide the sentence as before. Each crime is defined by a
14 class, and within that class, the judge will determine how long a defendant should serve
15 time in prison. The existing law in Title 18 will continue to be in force as to eligibility for
16 parole and the Parole Board.

17 2. Identify Sexual Offenses by Class. The Penal Code defines each crime by class
18 (class A, class B, class C, misdemeanor, petty misdemeanor). The chapter on sexual
19 crimes is brought into line with this system and each crime is given the appropriate
20 classification.

21 3. Remove presumption of credit card fraud. Under the credit card fraud, there
22 is a presumption that if the credit card company mails a revocation, then after 10 days
23 the holder is presumed to know the credit card is revoked. This provision is repealed
24 due to practicalities.

1 4. Amend “judicial authorities” to “law enforcement officers”. Under the
2 anti-money laundering section, if a defendant speaks with judicial officers, there is a
3 reduction in the term of imprisonment. This is amended for constitutional reasons to
4 law enforcement officers.

5 Section 2. Amendment. 17 PNC §§ 660-662 are amended as follows:

6 “§ 660. Terms of imprisonment for first and second degree murder and
7 attempted first and second degree murder.

8 (a) Persons convicted of first degree murder or first degree attempted murder
9 shall be sentenced to life imprisonment without possibility of parole.

10 As part of such sentence the court shall order the Ministry of Justice and the
11 paroling authority to prepare an application for the President of the Republic of Palau
12 to commute the sentence to life imprisonment with parole at the end of twenty (20) years
13 of imprisonment.

14 (b) Persons convicted of second degree murder and attempted second degree
15 murder shall be sentenced up to life imprisonment with possibility of parole. The
16 length of imprisonment shall be determined by the court after consideration of the
17 factors set forth in 17 PNC sections 617 and 630 and shall be no less than twenty (20)
18 years.

19 § 661. Sentence of imprisonment for class A felony.

20 A person who has been convicted of a class A felony may be sentenced to a term
21 of imprisonment of up to twenty-five (25) years without the possibility of suspension of
22 sentence. The length of imprisonment shall be determined by the court after
23 consideration of the factors set forth in 17 PNC sections 617 and 630 and shall be no less
24 than one (1) year.

25 § 662. Sentence of imprisonment for class B and C felonies; ordinary terms.

26 A person who has been convicted of a class B or class C felony may be sentenced
27 to a term of imprisonment as follows:

28 (a) For a class B felony—up to ten (10) years; and

1 (b) For a class C felony—up to five (5) years.

2 The length of imprisonment shall be determined by the court after consideration
3 of the factors set forth in 17 PNC sections 617 and 630 and shall be no less than one (1)
4 year.”

5 Section 3. Repealer. 17 PNC §§ 667-668 are repealed as follows:

6 “§ 667. [Repealed].

7 § 668. [Repealed.]”

8 Section 4. Amendment. 17 PNC §§ 1601-1608 are amended as follows:

9 “§ 1601. Incest.

10 (a) A person commits the offense of incest if the person knowingly commits an
11 act of sexual penetration with another who is within the degrees of consanguinity or
12 affinity within which marriage is prohibited by law or custom.

13 (b) Incest is a class A felony.

14 § 1602. Sexual assault in the first degree.

15 (a) A person commits the offense of sexual assault in the first degree if:

16 (1) The person knowingly subjects another person to an act of sexual
17 penetration by strong compulsion;

18 (2) The person knowingly engages in sexual penetration with another
19 person who is less than fifteen years old;

20 (3) The person knowingly engages in sexual penetration with a person
21 who is at least fifteen years old but less than seventeen years old; provided that:

22 (A) The person is not less than five years older than the minor; and

23 (B) The person is not legally married to the minor;

24 (4) The person knowingly subjects to sexual penetration another person
25 who is mentally defective; or

26 (5) The person knowingly subjects to sexual penetration another person
27 who is mentally incapacitated or physically helpless as a result of the influence of
28 a substance that the actor knowingly caused to be administered to the other

1 person without the other person's consent.

2 Paragraphs (2) and (3) shall not be construed to prohibit licensed medical
3 practitioners from performing any act within their respective practices.

4 (b) Sexual assault in the first degree is a class A felony.

5 § 1603. Sexual assault in the second degree.

6 (a) A person commits the offense of sexual assault in the second degree if:

7 (1) The person knowingly subjects another person to an act of sexual
8 penetration by compulsion;

9 (2) The person knowingly subjects to sexual penetration another person
10 who is mentally incapacitated or physically helpless; or

11 (3) The person, while employed:

12 (A) In a Republic of Palau correctional facility or a
13 community-based residential facility;

14 (B) By a private company providing services at a correctional
15 facility;

16 (C) By a private company providing community-based residential
17 services to persons committed to the Bureau of Public Safety and having
18 received notice of this statute;

19 (D) By a private correctional facility operating in the Republic of
20 Palau; or

21 (E) As a law enforcement officer, knowingly subjects to sexual
22 penetration an imprisoned person, a person confined to a detention
23 facility, a person committed to the Bureau of Public Safety, a person
24 residing in a private correctional facility operating in the Republic of
25 Palau, or a person in custody; provided that paragraph (2) and this
26 paragraph shall not be construed to prohibit licensed medical
27 practitioners from performing any act within their respective practices;
28 and further provided that this paragraph shall not be construed to

1 prohibit a law enforcement officer from performing a lawful search
2 pursuant to a warrant or exception to the warrant clause.

3 (b) Sexual assault in the second degree is a class B felony.

4 § 1604. Sexual assault in the third degree.

5 (a) A person commits the offense of sexual assault in the third degree if:

6 (1) The person recklessly subjects another person to an act of sexual
7 penetration by compulsion;

8 (2) The person knowingly subjects to sexual contact another person who
9 is less than fifteen years old or causes such a person to have sexual contact with
10 the person;

11 (3) The person knowingly engages in sexual contact with a person who is
12 at least fifteen years old but less than seventeen years old or causes the minor to
13 have sexual contact with the person; provided that:

14 (A) The person is not less than five years older than the minor;
15 and

16 (B) The person is not legally married to the minor;

17 (4) The person knowingly subjects to sexual contact another person who
18 is mentally defective, mentally incapacitated, or physically helpless, or causes
19 such a person to have sexual contact with the actor;

20 (5) The person, while employed:

21 (A) In a Republic of Palau correctional facility or a community-
22 based residential facility;

23 (B) By a private company providing services at a correctional
24 facility;

25 (C) By a private company providing community-based residential
26 services to persons committed to the Bureau of Public Safety and having
27 received notice of this statute;

28 (D) By a private correctional facility operating in the Republic of

1 Palau; or

2 (E) As a law enforcement officer, knowingly subjects to sexual
3 contact an imprisoned person, a person confined to a detention facility, a
4 person committed to the Bureau of Public Safety, a person residing in a
5 private correctional facility operating in the Republic of Palau, or a
6 person in custody, or causes the person to have sexual contact with the
7 actor; or

8 (F) The person knowingly, by strong compulsion, has sexual
9 contact with another person or causes another person to have sexual
10 contact with the actor.

11 Paragraphs (2), (3), (4), and (5) shall not be construed to prohibit licensed
12 medical practitioners from performing any act within their respective practices;
13 provided further that paragraph (5)(E) shall not be construed to prohibit a law
14 enforcement officer from performing a lawful search pursuant to a warrant or an
15 exception to the warrant clause.

16 (b) Sexual assault in the third degree is a class C felony.

17 § 1605. Sexual assault in the fourth degree.

18 (a) A person commits the offense of sexual assault in the fourth degree if:

19 (1) The person knowingly subjects another person to sexual contact by
20 compulsion or causes another person to have sexual contact with the actor by
21 compulsion;

22 (2) The person knowingly exposes the person's genitals to another person
23 under circumstances in which the actor's conduct is likely to alarm the other
24 person or put the other person in fear of bodily injury; or

25 (3) The person knowingly trespasses on property for the purpose of
26 subjecting another person to surreptitious surveillance for the sexual
27 gratification of the actor.

28 (b) Sexual assault in the fourth degree is a misdemeanor.

1 § 1606. Continuous sexual assault of a minor under the age of fifteen years.

2 (a) A person commits the offense of continuous sexual assault of a minor under
3 the age of fifteen years if the person:

4 (1) Either resides in the same home with a minor under the age of fifteen
5 years or has recurring access to the minor; and

6 (2) Engages in three or more acts of sexual penetration or sexual contact
7 with the minor over a period of time, while the minor is under the age of fifteen
8 years.

9 (b) No other felony sex offense involving the same victim may be charged in the
10 same proceeding with a charge under this section, unless the other charged offense
11 occurred outside the period of the offense charged under this section, or the other
12 offense is charged in the alternative. A defendant may be charged with only one count
13 under this section, unless more than one victim is involved, in which case a separate
14 count may be charged for each victim.

15 (c) Continuous sexual assault of a minor under the age of fifteen years is a class
16 A felony.

17 § 1607. Sexual harassment.

18 (a) A person commits the offense of sexual harassment if the person
19 intentionally, knowingly or recklessly subjects a person to:

20 (1) Unwelcome sexual advances;

21 (2) Unwelcome requests for sexual favors; or

22 (3) Unwelcome verbal or physical conduct of a sexual nature.

23 (b) Sexual harassment is a misdemeanor.

24 § 1608. Indecent exposure.

25 (a) A person commits the offense of indecent exposure if the person
26 intentionally exposes the person's genitals to a person to whom the person is not
27 married under circumstances in which the actor's conduct is likely to cause affront.

28 (b) Indecent exposure is a misdemeanor."

1 Section 5. Amendment. 17 PNC § 3200 is amended as follows:

2 “§ 3200. Fraudulent use of a credit card.

3 (a) A person commits the offense of fraudulent use of a credit card if with intent
4 to defraud the issuer, or another person or organization providing money, goods,
5 services, or anything else of value, or any other person, the person:

6 (1) Uses or attempts or conspires to use, for the purpose of obtaining
7 money, goods, services, or anything else of value a credit card obtained or
8 retained in violation of 17 PNC section 3203 or a credit card that the person
9 knows is forged, expired, or revoked;

10 (2) Obtains or attempts or conspires to obtain money, goods, services, or
11 anything else of value by representing without the consent of the cardholder that
12 the person is the holder of a specified card or by representing that the person is
13 the holder of a card and such card has not in fact been issued; or

14 (3) Uses or attempts or conspires to use a credit card number without
15 the consent of the cardholder for the purpose of obtaining money, goods,
16 services, or anything else of value.

17 (b) Fraudulent use of a credit card is a class C felony if the value of all money,
18 goods, services, and other things of value obtained or attempted to be obtained exceeds
19 three hundred dollars (\$300) in any six-month period. For purposes of this section,
20 each separate use of a credit card that exceeds three hundred dollars (\$300) constitutes
21 a separate offense.

22 (c) Fraudulent use of a credit card is a misdemeanor if the value of all money,
23 goods, services, and other things of value obtained or attempted to be obtained does not
24 exceed three hundred dollars (\$300) in any six-month period.”

25 Section 6. Amendment. 17 PNC § 3304 is amended as follows:

26 “§ 3304. Decreased penalties.

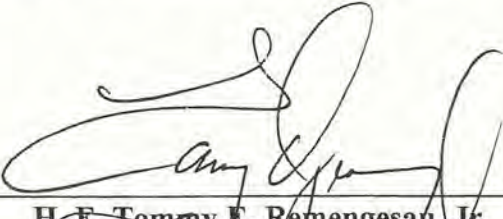
27 The penalties imposed under 17 PNC section 3301 may be reduced by one third if
28 the perpetrator of the money laundering offense provides law enforcement officers with

1 information they would not have otherwise obtained so as to assist them in:
2 (a) preventing or limiting the effects of the money laundering offense;
3 (b) identifying or prosecuting other perpetrators of the money laundering
4 offense;
5 (c) obtaining evidence;
6 (d) preventing the commission of other money laundering offenses; or
7 (e) depriving organized criminal groups of property over which the defendant
8 has no interest or control.”

9 Section 7. Effective date. This Act shall take effect upon its approval by the
10 President of the Republic of Palau, or upon its becoming law without such approval.

PASSED: September 10, 2015

Approved this 13th day of October, 2015


H. E. Tommy E. Remengesau, Jr.
President of the Republic of Palau