

AN ACT

To repeal Title 11, § 451 of the Trust Territory Code, to provide powers to courts of Palau to punish contempt of courts, and for other purposes.

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

1 Section 1. Short title; legislative findings and purposes.

2 (a) This Act shall be known and maybe cited as the
3 "Contempt of Courts Act."

4 (b) The Congress hereby finds and declares the policy
5 of this nation to be, as follows:

6 (1) It is the Constitutional responsibility of
7 the national government to organize its judicial system
8 before January 1, 1982, empower the courts to act
9 expeditiously, and be able to have their judgments
10 enforced.

11 (2) Contempt of courts is generally recognized
12 as any conduct that offends the dignity of and respect
13 towards the court or of any judicial office in the
14 performance of a judicial function.

15 (3) Power to punish contempt of courts is vital
16 to a strong, honorable judiciary.

17 Section 2. Power of courts to punish for criminal contempts.

18 Courts of the Republic of Palau have the power to punish for a
19 criminal contempt, a person guilty of any of the following acts,
20 and no others:

21 (a) Disorderly, contemptuous, or insolent behavior,
22 committed during its sitting, in its immediate view and presence,
23 and directly tending to interrupt its proceedings, or to impair
24 the respect due to its authority.
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1 (b) Breach of peace, noise, or other disturbance,
2 directly tending to interrupt its proceedings.

3 (c) Wilful disobedience to its lawful mandate.

4 (d) Resistance wilfully offered to its lawful mandate.

5 (e) Unlawful refusal to be sworn as a witness; or after
6 being sworn, answer any legal and proper interrogatory.

7 (f) Publication of a false, or grossly inaccurate report
8 of its proceedings.

9 (g) Wilful failure to obey any mandate, process or notice
10 issued pursuant to law, or to court rules, writ, process, order,
11 decree or command.

12 Section 3. Power of courts to punish for civil contempts.
13 Courts of the Republic of Palau have the power to punish, by fine
14 and imprisonment, or either, a neglect or violation of duty, or
15 other misconduct, by which a right or remedy of a party to a
16 civil action or special proceeding, pending in the court may be
17 defeated, impaired, impeded, or prejudiced, in any of the
18 following cases:

19 (a) An attorney, counselor, trial assistant, clerk,
20 policeman, or other person, in any manner duly selected or
21 appointed to perform a judicial service, for misbehavior in his
22 office or trust or for a wilful neglect or violation of a duty
23 therein; or for disobedience to a lawful mandate of the court, or
24 of a justice or judge thereof.

25 (b) A party to the action or special proceedings for
26 putting in fictitious bail or a fictitious surety, or for any
27 deceit or abuse of a mandate or proceeding of the court.

28 (c) A party to the action or special proceedings an
29 attorney, counselor, trial assistant, clerk, policeman, or other
30 person, for the non-payment of a sum of money, ordered or adjudged
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1 by the court to be paid, in a case where by law execution cannot
2 be awarded for the collection of such sum except as otherwise
3 specifically provided by the civil practice law and rules; or for
4 any other disobedience to a lawful mandate of the court.

5 (d) A person, for assuming to be an officer of the court,
6 and acting as such without authority, for rescuing any property
7 or person in the custody of an officer, by virtue of a mandate of
8 the court; for unlawfully detaining, or fraudulently and wilfully
9 preventing or disabling from attending or testifying, a witness,
10 or a party to the action or special proceeding, while going to,
11 remaining at, or returning from, the sitting where it is noticed
12 for trial or hearing; and for any other unlawful interference
13 with the proceedings therein.

14 (e) A person subpoenaed as a witness, for refusing or
15 neglecting to obey the subpoena, or to attend, or to be sworn,
16 or to answer as a witness.

17 (f) A person duly acting as a juror, or special juror,
18 or assessor, for improperly conversing with a party to an action
19 or special proceeding, or with any other person, in relation to
20 the merits of that action or special proceeding; or for receiving
21 a communication from any person, in relation to the merits of
22 such an action or special proceeding; without immediately
23 disclosing the same to the court.

24 Section 4. Procedures; penalties; limitations.

25 (a) Any person accused of committing any contempt,
26 criminal or civil, shall have a right to notice of the charges
27 and an opportunity to present defenses and mitigation; PROVIDED,
28 HOWEVER, where the offense is committed in the immediate view and
29 presence of the court, upon a trial or hearing, it may be punished
30 summarily. For that purpose, an order must be made by the court,
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1 justice, or judge, stating the facts which constitute the offense
2 and plainly prescribe the punishment to be inflicted therefor.

3 (b) A person found to be in contempt of courts, criminal or
4 civil, shall be fined not more than one thousand dollars (\$1,000.00)
5 or imprisoned for not more than six (6) months, or both; provided,
6 however, that a person found in civil contempt for having failed
7 to perform an act or duty, which is yet in the power of that per-
8 son to perform, shall be imprisoned until he has performed it.

9 (c) Any person shall have the right to be charged within
10 three (3) months of the contempt and the right not to be charged
11 twice for the same contempt.

12 Section 5. Appeal. Any adjudication of contempt is sub-
13 ject to appeal to the appellate division of the Supreme Court. Any
14 punishment of contempt may be stayed pending appeal, but a punish-
15 ment of imprisonment shall be stayed on appeal automatically,
16 unless the court finds that a stay of imprisonment will cause an
17 immediate obstruction of justice. Such finding must be supported
18 by written findings of fact. A denial of a stay of imprisonment
19 is subject to review.

20 Section 6. Code provision repealed; conflict of laws.
21 ~~Suspended—(a) Title 11, § 451 of the Trust Territory Code is hereby~~
22 ~~repealed in its entirety.~~

23 (b) Any other law, regulation or rule in conflict with the
24 provisions of this Act shall be deemed superceded and void to the
25 extent of the conflict.

26 Section 7. Effective Date. Upon its approval by the
27 President of the Republic of Palau, or upon its becoming law with-
28 out such approval, this Act shall take effect upon the organiza-
29 tion and certification of the judicial system of the Republic of
30 Palau in accordance with Section 5 of Secretarial Order No. 3039
31 and Article XV, Section 8 of the Constitution of the Republic of
32 Palau, except as otherwise provided by law.

PASSED: November 5, 1981

/s/ Carlos H. Salii
Carlos H. Salii, Speaker
House of Delegates

/s/ Kaleb Udui
Kaleb Udui, President
The Senate

Approved this 25 day of November, 1981.

PARTIALLY SUSPENDED, PER SEC. ORDER 3639,
(Section 6A) December 23, 1981

/s/ Haruo I. Remeliik
Haruo I. Remeliik, President
Republic of Palau

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TO GOVT PALAU CAROLINE ISLANDS

UNCLAS

PLS PASS TO PRESIDENT REMILIIK. IN ACCORDANCE WITH SECTION 4 OF SECRETARIAL ORDER 3039 I HEREBY NOTIFY YOU THAT I HAVE ACTED TO SUSPEND SECTION 6(A) OF THE REPUBLIC OF PALAU CONTEMPT OF COURTS ACT, RPPL NO. 1-23, FOR THE REASON THAT THE SECTION IS INCONSISTENT WITH SECTION 5 OF SECRETARIAL ORDER 3039. I HAVE ELECTED NOT TO SUSPEND THE REMAINDER OF THE ACT. MORE SPECIFICALLY I HAVE CONCLUDED WITH RESPECT TO SECTION 6(A) OF THE ACT THAT THE REPEAL OF SECTION 451, TITLE 11 OF THE TRUST TERRITORY CODE EFFECTED THEREIN IN AND FOR THE REPUBLIC OF PALAU WOULD AFFECT THE JURISDICTION OF THE HIGH COURT SUBSEQUENT TO CERTIFICATION OF THE NATIONAL COURT WITH RESPECT TO THE HIGH COURT'S CONTINUING JURISDICTION OVER THE TRUST TERRITORY AND HIGH COMMISSIONER AND OVER CASES IN ACTIVE TRIAL OR CASES WHICH CANNOT BE TRANSFERRED WITHOUT PREJUDICE TO THE RIGHT OF ONE OF THE PARTIE, THE POWER OF CONTEMPT BEING AN INCIDENT OF THE COURT'S JURISDICTION. RESPECTFULLY YOURS, JANET J. MCCOY, HIGH COMMISSIONER SENDS.

TOD: 0932Z DEC 23 1981/BM. . .