

I MINA'TRENTAI TRES NA LIHESLATURAN GUÁHAN
2015 (FIRST) Regular Session

Bill No. 41 -33 (COR)

2015 FEB 24 PM 6:01
Annal

Introduced by:

B. J.F. Cruz 

**AN ACT TO REPEAL AND REENACT CHAPTER 35 OF
DIVISION 3, TITLE 5 OF THE GUAM CODE ANNOTATED,
RELATIVE TO ADOPTING REVISIONS TO THE UNIFORM
INTERSTATE FAMILY SUPPORT ACT.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1.** Chapter 35 of Division 3, of Title 5 of the Guam Code Annotated
3 is hereby *repealed* and *reenacted* to read as follows:

4
5 **“CHAPTER 35**

6 **UNIFORM INTERSTATE FAMILY SUPPORT ACT**

- 7
- 8 Article 1. General Provisions.
 - 9 Article 2. Extended Personal Jurisdiction.
 - 10 Article 3. Civil Provisions of General Application.
 - 11 Article 4. Establishment of Support Order.
 - 12 Article 5. Enforcement of Order of Another State Without Registration.
 - 13 Article 6. Enforcement and Modification of Support Order After
 - 14 Registration.
 - 15 Article 7. Determining Parentage.
 - 16 Article 8. Interstate Rendition.
 - 17 Article 9. Miscellaneous Provisions.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

ARTICLE 1
GENERAL PROVISIONS

§ 35101. Short Title.

§ 35102. Definitions.

§ 35103. State Tribunal and Support Enforcement Agency.

§ 35104. Remedies Cumulative.

§ 35105. Application of Act to Resident of Foreign Country and Foreign Support Proceeding.

§ **35101. Short Title.** This Act may be cited as the “Uniform Interstate Family Support Act”.

§ **35102. Definitions.** In this Act:

(1) *Child* means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual’s parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) *Child-support order* means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.

(3) *Convention* means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

(4) *Duty of support* means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

1 (5) *Foreign country* means a country, including a political
2 subdivision thereof, other than the United States, that authorizes the
3 issuance of support orders and:

4 (A) which has been declared under the law of the United
5 States to be a foreign reciprocating country;

6 (B) which has established a reciprocal arrangement for
7 child support with this state as provided in § 35308;

8 (C) which has enacted a law or established procedures for
9 the issuance and enforcement of support orders which are
10 substantially similar to the procedures under this Act; or

11 (D) in which the Convention is in force with respect to
12 the United States.

13 (6) *Foreign support order* means a support order of a foreign
14 tribunal.

15 (7) *Foreign tribunal* means a court, administrative agency, or
16 quasi-judicial entity of a foreign country that is authorized to
17 establish, enforce, or modify support orders or to determine parentage
18 of a child. The term includes a competent authority under the
19 Convention.

20 (8) *Home state* means the state or foreign country in which a
21 child lived with a parent or a person acting as parent for at least six
22 consecutive months immediately preceding the time of filing of a
23 petition or comparable pleading for support and, if a child is less than
24 six months old, the state or foreign country in which the child lived
25 from birth with any of them. A period of temporary absence of any of
26 them is counted as part of the six-month or other period.

1 (9) *Income* includes earnings or other periodic entitlements to
2 money from any source and any other property subject to withholding
3 for support under the law of this state.

4 (10) *Income-withholding order* means an order or other legal
5 process directed to an obligor's employer, or other debtor, as defined
6 by the income-withholding law of Guam, to withhold support from
7 the income of the obligor.

8 (11) *Initiating tribunal* means the tribunal of a state or foreign
9 country from which a petition or comparable pleading is forwarded or
10 in which a petition or comparable pleading is filed for forwarding to
11 another state or foreign country.

12 (12) *Issuing foreign country* means the foreign country in which
13 a tribunal issues a support order or a judgment determining parentage
14 of a child.

15 (13) *Issuing state* means the state in which a tribunal issues a
16 support order or a judgment determining parentage of a child.

17 (14) *Issuing tribunal* means the tribunal of a state or foreign
18 country that issues a support order or a judgment determining
19 parentage of a child.

20 (15) *Law* includes decisional and statutory law and rules and
21 regulations having the force of law.

22 (16) *Obligee* means:

23 (A) an individual to whom a duty of support is or is
24 alleged to be owed or in whose favor a support order or a
25 judgment determining parentage of a child has been issued;

26 (B) a foreign country, state, or political subdivision of a
27 state to which the rights under a duty of support or support

1 order have been assigned or which has independent claims
2 based on financial assistance provided to an individual obligee
3 in place of child support;

4 (C) an individual seeking a judgment determining
5 parentage of the individual's child; or

6 (D) a person that is a creditor in a proceeding under
7 Article 7.

8 (17) *Obligor* means an individual, or the estate of a decedent
9 that:

10 (A) owes or is alleged to owe a duty of support;

11 (B) is alleged but has not been adjudicated to be a parent
12 of a child;

13 (C) is liable under a support order; or

14 (D) is a debtor in a proceeding under Article 7.

15 (18) *Outside this state* means a location in another state or a
16 country other than the United States, whether or not the country is a
17 foreign country.

18 (19) *Person* means an individual, corporation, business trust,
19 estate, trust, partnership, limited liability company, association, joint
20 venture, public corporation, government or governmental subdivision,
21 agency, or instrumentality, or any other legal or commercial entity.

22 (20) *Record* means information that is inscribed on a tangible
23 medium or that is stored in an electronic or other medium and is
24 retrievable in perceivable form.

25 (21) *Register* means to file in a tribunal of this territory a
26 support order or judgment determining parentage of a child issued in
27 another state or a foreign country.

1 (22) *Registering tribunal* means a tribunal in which a support
2 order or judgment determining parentage of a child is registered.

3 (23) *Responding state* means a state in which a petition or
4 comparable pleading for support or to determine parentage of a child
5 is filed or to which a petition or comparable pleading is forwarded for
6 filing from another state or a foreign country.

7 (24) *Responding tribunal* means the authorized tribunal in a
8 responding state or foreign country.

9 (25) *Spousal-support order* means a support order for a spouse
10 or former spouse of the obligor.

11 (26) *State* means a state of the United States, the District of
12 Columbia, Guam, Puerto Rico, the United States Virgin Islands, or
13 any territory or insular possession under the jurisdiction of the United
14 States. The term includes an Indian nation or tribe.

15 (27) *Support enforcement agency* means a public official,
16 governmental entity, or private agency authorized to:

17 (A) seek enforcement of support orders or laws relating
18 to the duty of support;

19 (B) seek establishment or modification of child support;

20 (C) request determination of parentage of a child;

21 (D) attempt to locate obligors or their assets; or

22 (E) request determination of the controlling child-support
23 order.

24 (28) *Support order* means a judgment, decree, order, decision,
25 or directive, whether temporary, final, or subject to modification,
26 issued in a state or foreign country for the benefit of a child, a spouse,
27 or a former spouse, which provides for monetary support, health care,

1 arrearages, retroactive support, or reimbursement for financial
2 assistance provided to an individual obligee in place of child support.
3 The term may include related costs and fees, interest, income
4 withholding, automatic adjustment, reasonable attorney's fees, and
5 other relief.

6 (29) *Tribunal* means a court, administrative agency, or quasi-
7 judicial entity authorized to establish, enforce, or modify support
8 orders or to determine parentage of a child.

9 **§ 35103. State Tribunal and Support Enforcement Agency.**

10 (a) The Unified Courts of Guam are the tribunal of this state.

11 (b) The Child Support Enforcement Division of the Office of the
12 Attorney General is the support enforcement agency of this state.

13 **§ 35104. Remedies Cumulative.**

14 (a) Remedies provided by this act are cumulative and do not affect the
15 availability of remedies under other law or the recognition of a foreign
16 support order on the basis of comity.

17 (b) This Act does not:

18 (1) provide the exclusive method of establishing or enforcing a
19 support order under the law of this state; or

20 (2) grant a tribunal of this state jurisdiction to render judgment
21 or issue an order relating to child custody or visitation in a proceeding
22 under this Act.

23 **§ 35105. Application of Act to Resident of Foreign Country and**
24 **Foreign Support Proceeding.**

25 (a) A tribunal of this state *shall* apply Articles 1 through 6 and,
26 as applicable, Article 7, to a support proceeding involving:

27 (1) a foreign support order;

1 (2) a foreign tribunal; or

2 (3) an obligee, obligor, or child residing in a foreign
3 country.

4 (b) A tribunal of this state that is requested to recognize and
5 enforce a support order on the basis of comity may apply the
6 procedural and substantive provisions of Articles 1 through 6.

7 (c) Article 7 applies only to a support proceeding under the
8 Convention. In such a proceeding, if a provision of Article 7 is
9 inconsistent with Articles 1 through 6, Article 7 controls.

10
11 **ARTICLE 2**
12 **JURISDICTION**

- 13
14 § 35201. Bases for Jurisdiction over Nonresident.
15 § 35202. Duration of Personal Jurisdiction.
16 § 35203. Initiating and Responding Tribunal of State.
17 § 35204. Simultaneous Proceedings.
18 § 35205. Continuing, Exclusive Jurisdiction to Modify Child-Support
19 Order.
20 § 35206. Continuing Jurisdiction to Enforce Child-Support Order.
21 § 35207. Determination of Controlling Child-Support Order.
22 § 35208. Child-Support Orders for Two or More Obligees.
23 § 35209. Credit for Payments.
24 § 35210. Application of Act to Nonresident Subject to Personal
25 Jurisdiction.
26 § 35211. Continuing, Exclusive Jurisdiction to Modify Spousal-Support
27 Order.

1
2 **§ 35201. Bases for Jurisdiction over Nonresident.**

3 (a) In a proceeding to establish or enforce a support order or to
4 determine parentage of a child, a tribunal of this state may exercise
5 personal jurisdiction over a nonresident individual or the individual's
6 guardian if:

7 (1) the individual is personally served with summons or
8 notice within this state;

9 (2) the individual submits to the jurisdiction of this state
10 by consent in a record, by entering a general appearance, or by
11 filing a responsive document having the effect of waiving any
12 contest to personal jurisdiction;

13 (3) the individual resided with the child in this state;

14 (4) the individual resided in this state and provided
15 prenatal expenses or support for the child;

16 (5) the child resides in this state as a result of the acts or
17 directives of the individual;

18 (6) the individual engaged in sexual intercourse in this
19 state and the child may have been conceived by that act of
20 intercourse;

21 (7) the individual asserted parentage of a child in a Guam
22 Declaration of Paternity form; or

23 (8) there is any other basis consistent with the
24 constitutions of this state and the United States for the exercise
25 of personal jurisdiction.

26 (b) The bases of personal jurisdiction set forth in subsection
27 35201(a) or in any other law of this state may not be used to acquire

1 personal jurisdiction for a tribunal of this state to modify a child-
2 support order of another state unless the requirements of § 35611 are
3 met, or, in the case of a foreign support order, unless the requirements
4 of § 35615 are met.

5 **§ 35202. Duration of Personal Jurisdiction.** Personal jurisdiction
6 acquired by a tribunal of this state in a proceeding under this Act or other
7 law of this state relating to a support order continues as long as a tribunal of
8 this state has continuing, exclusive jurisdiction to modify its order or
9 continuing jurisdiction to enforce its order as provided by §§ 35205, 35206,
10 and 35211.

11 **§ 35203. Initiating and Responding Tribunal of State.** Under this
12 Act, a tribunal of this state may serve as an initiating tribunal to forward
13 proceedings to a tribunal of another state, and as a responding tribunal for
14 proceedings initiated in another state or a foreign country.

15 **§ 35204. Simultaneous Proceedings.**

16 a) A tribunal of this state may exercise jurisdiction to establish
17 a support order if the petition or comparable pleading is filed after a
18 pleading is filed in another state or a foreign country only if:

19 (1) the petition or comparable pleading in this state is
20 filed before the expiration of the time allowed in the other state
21 or the foreign country for filing a responsive pleading
22 challenging the exercise of jurisdiction by the other state or the
23 foreign country;

24 (2) the contesting party timely challenges the exercise of
25 jurisdiction in the other state or the foreign country; and

26 (3) if relevant, this state is the home state of the child.

1 (b) A tribunal of this state may not exercise jurisdiction to
2 establish a support order if the petition or comparable pleading is filed
3 before a petition or comparable pleading is filed in another state or a
4 foreign country if:

5 (1) the petition or comparable pleading in the other state
6 or foreign country is filed before the expiration of the time
7 allowed in this state for filing a responsive pleading challenging
8 the exercise of jurisdiction by this state;

9 (2) the contesting party timely challenges the exercise of
10 jurisdiction in this state; and

11 (3) if relevant, the other state or foreign country is the
12 home state of the child.

13 **§ 35205. Continuing, Exclusive Jurisdiction to Modify Child-**
14 **Support Order.**

15 (a) A tribunal of this state that has issued a child-support order
16 consistent with the law of this state has and *shall* exercise continuing,
17 exclusive jurisdiction to modify its child-support order if the order is
18 the controlling order and:

19 (1) at the time of the filing of a request for modification
20 this state is the residence of the obligor, the individual obligee,
21 or the child for whose benefit the support order is issued; or

22 (2) even if this state is not the residence of the obligor,
23 the individual obligee, or the child for whose benefit the
24 support order is issued, the parties consent in a record or in
25 open court that the tribunal of this state may continue to
26 exercise jurisdiction to modify its order.

1 (b) A tribunal of this state that has issued a child-
2 support order consistent with the law of this state may
3 not exercise continuing, exclusive jurisdiction to modify
4 the order if:

5 (1) all of the parties who are individuals file
6 consent in a record with the tribunal of this state
7 that a tribunal of another state that has jurisdiction
8 over at least one (1) of the parties who is an
9 individual or that is located in the state of
10 residence of the child may modify the order and
11 assume continuing, exclusive jurisdiction; or

12 (2) its order is not the controlling order.

13 (c) If a tribunal of another state has issued a child-
14 support order pursuant to the Uniform Interstate Family
15 Support Act or a law substantially similar to that Act
16 which modifies a child-support order of a tribunal of this
17 state, tribunals of this state *shall* recognize the
18 continuing, exclusive jurisdiction of the tribunal of the
19 other state.

20 (d) A tribunal of this state that lacks continuing,
21 exclusive jurisdiction to modify a child-support order
22 may serve as an initiating tribunal to request a tribunal of
23 another state to modify a support order issued in that
24 state.

25 (e) A temporary support order issued *ex parte* or
26 pending resolution of a jurisdictional conflict does not

1 create continuing, exclusive jurisdiction in the issuing
2 tribunal.

3 **§ 35206. Continuing Jurisdiction to Enforce Child-Support**
4 **Order.**

5 (a) A tribunal of this state that has issued a child-support order
6 consistent with the law of this state may serve as an initiating tribunal
7 to request a tribunal of another state to enforce:

8 (1) the order if the order is the controlling order and has
9 not been modified by a tribunal of another state that assumed
10 jurisdiction pursuant to the Uniform Interstate Family Support
11 Act; or

12 (2) a money judgment for arrears of support and interest
13 on the order accrued before a determination that an order of a
14 tribunal of another state is the controlling order.

15 (b) A tribunal of this state having continuing jurisdiction over a
16 support order may act as a responding tribunal to enforce the order.

17 **§ 35207. Determination Of Controlling Child-Support Order.**

18 (a) If a proceeding is brought under this Act and only one (1)
19 tribunal has issued a child-support order, the order of that tribunal
20 controls and must be recognized.

21 (b) If a proceeding is brought under this Act, and two (2) or
22 more child-support orders have been issued by tribunals of this state,
23 another state, or a foreign country with regard to the same obligor and
24 same child, a tribunal of this state having personal jurisdiction over
25 both the obligor and individual obligee *shall* apply the following rules
26 and by order *shall* determine which order controls and must be
27 recognized:

1 (1) If *only* one (1) of the tribunals would have continuing,
2 exclusive jurisdiction under this act, the order of that tribunal
3 controls.

4 (2) If *more than* one (1) of the tribunals would have
5 continuing, exclusive jurisdiction under this Act:

6 (A) an order issued by a tribunal in the current
7 home state of the child controls; or

8 (B) if an order has not been issued in the current
9 home state of the child, the order most recently issued
10 controls.

11 (3) If none of the tribunals would have continuing,
12 exclusive jurisdiction under this Act, the tribunal of this state
13 *shall* issue a child-support order, which controls.

14 (c) If two (2) or more child-support orders have been issued for
15 the same obligor and same child, upon request of a party who is an
16 individual or that is a support enforcement agency, a tribunal of this
17 state having personal jurisdiction over both the obligor and the obligee
18 who is an individual *shall* determine which order controls under
19 subsection (b). The request may be filed with a registration for
20 enforcement or registration for modification pursuant to Article 6, or
21 may be filed as a separate proceeding.

22 (d) A request to determine which is the controlling order must
23 be accompanied by a copy of every child-support order in effect and
24 the applicable record of payments. The requesting party *shall* give
25 notice of the request to each party whose rights may be affected by the
26 determination.

1 (e) The tribunal that issued the controlling order under
2 subsection (a), (b), or (c) has continuing jurisdiction to the extent
3 provided in § 35205 or 35206.

4 (f) A tribunal of this state that determines by order which is the
5 controlling order under subsection (b)(1), (b)(2) or (c), or that issues a
6 new controlling order under subsection (b)(3), *shall* state in that order:

7 (1) the basis upon which the tribunal made its
8 determination;

9 (2) the amount of prospective support, if any; and

10 (3) the total amount of consolidated arrears and accrued
11 interest, if any, under all of the orders after all payments made
12 are credited as provided by § 35209.

13 (g) Within thirty (30) days after issuance of an order
14 determining which is the controlling order, the party obtaining the
15 order *shall* file a certified copy of it in each tribunal that issued or
16 registered an earlier order of child support. A party or support
17 enforcement agency obtaining the order that fails to file a certified
18 copy is subject to appropriate sanctions by a tribunal in which the
19 issue of failure to file arises. The failure to file does not affect the
20 validity or enforceability of the controlling order.

21 (h) An order that has been determined to be the controlling
22 order, or a judgment for consolidated arrears of support and interest, if
23 any, made pursuant to this section must be recognized in proceedings
24 under this act.

25 **§ 35208. Child-Support Orders for Two or More Obligees.** In
26 responding to registrations or petitions for enforcement of two (2) or more
27 child-support orders in effect at the same time with regard to the same

1 obligor and different individual obligees, at least one (1) of which was
2 issued by a tribunal of another state or a foreign country, a tribunal of this
3 state *shall* enforce those orders in the same manner as if the orders had been
4 issued by a tribunal of this state.

5 **§ 35209. Credit for Payments.** A tribunal of this state *shall* credit
6 amounts collected for a particular period pursuant to any child-support order
7 against the amounts owed for the same period under any other child-support
8 order for support of the same child issued by a tribunal of this state, another
9 state, or a foreign country.

10 **§ 35210. Application of Act to Nonresident Subject to Personal**
11 **Jurisdiction.** A tribunal of this state exercising personal jurisdiction over a
12 nonresident in a proceeding under this act, under other law of this state
13 relating to a support order, or recognizing a foreign support order may
14 receive evidence from outside this state pursuant to § 35316, communicate
15 with a tribunal outside this state pursuant to § 35317, and obtain discovery
16 through a tribunal outside this state pursuant to § 35318. In all other
17 respects, Articles 3 through 6 do not apply, and the tribunal *shall* apply the
18 procedural and substantive law of this state.

19 **§ 35211. Continuing, Exclusive Jurisdiction to Modify Spousal-**
20 **Support Order.**

21 (a) A tribunal of this state issuing a spousal-support order
22 consistent with the law of this state has continuing, exclusive
23 jurisdiction to modify the spousal-support order throughout the
24 existence of the support obligation.

25 (b) A tribunal of this state may not modify a spousal-support
26 order issued by a tribunal of another state or a foreign country having

1 continuing, exclusive jurisdiction over that order under the law of that
2 state or foreign country.

3 (c) A tribunal of this state that has continuing, exclusive
4 jurisdiction over a spousal-support order may serve as:

5 (1) an initiating tribunal to request a tribunal of another
6 state to enforce the spousal-support order issued in this state; or

7 (2) a responding tribunal to enforce or modify its own
8 spousal-support order.

9
10 **ARTICLE 3**

11 **CIVIL PROVISIONS OF GENERAL APPLICATION**

12
13 § 35301. Proceedings Under Act.

14 § 35302. Proceeding by Minor Parent.

15 § 35303. Application of Law of State.

16 § 35304. Duties of Initiating Tribunal.

17 § 35305. Duties and Powers of Responding Tribunal.

18 § 35306. Inappropriate Tribunal.

19 § 35307. Duties of Support Enforcement Agency.

20 § 35308. Duty of Administrative Hearings Officer or United Courts of
21 Guam.

22 § 35309. Private Counsel.

23 § 35310. Duties of Child Support Enforcement Division.

24 § 35311. Pleadings and Accompanying Documents.

25 § 35312. Nondisclosure of Information in Exceptional Circumstances.

26 § 35313. Costs and Fees.

27 § 35314. Limited Immunity of Petitioner.

- 1 § 35315. Nonparentage as Defense.
- 2 § 35316. Special Rules of Evidence and Procedure.
- 3 § 35317. Communications Between Tribunals.
- 4 § 35318. Assistance with Discovery.
- 5 § 35319. Receipt and Disbursement of Payments.

6

7 **§ 35301. Proceedings Under Act.**

8 (a) Except as otherwise provided in this Act, this Article applies
9 to all proceedings under this Act.

10 (b) An individual petitioner or a support enforcement agency
11 may initiate a proceeding authorized under this act by filing a petition
12 in an initiating tribunal for forwarding to a responding tribunal or by
13 filing a petition or a comparable pleading directly in a tribunal of
14 another state or a foreign country which has or can obtain personal
15 jurisdiction over the respondent.

16 **§ 35302. Proceeding By Minor Parent.** A minor parent, or a
17 guardian or other legal representative of a minor parent, may maintain a
18 proceeding on behalf of or for the benefit of the minor’s child.

19 **§ 35303. Application Of Law Of State.** Except as otherwise
20 provided in this Act, a responding tribunal of this state *shall*:

21 (1) apply the procedural and substantive law generally
22 applicable to similar proceedings originating in this state and may
23 exercise all powers and provide all remedies available in those
24 proceedings; and

25 (2) determine the duty of support and the amount payable in
26 accordance with the law and support guidelines of this state.

27

1 **§ 35304. Duties Of Initiating Tribunal.**

2 (a) Upon the filing of a petition authorized by this Act, an
3 initiating tribunal of this state *shall* forward the petition and its
4 accompanying documents:

5 (1) to the responding tribunal or appropriate support
6 enforcement agency in the responding state; or

7 (2) if the identity of the responding tribunal is unknown,
8 to the state information agency of the responding state with a
9 request that they be forwarded to the appropriate tribunal and
10 that receipt be acknowledged.

11 (b) If requested by the responding tribunal, a tribunal of this
12 state *shall* issue a certificate or other document and make findings
13 required by the law of the responding state. If the responding tribunal
14 is in a foreign country, upon request the tribunal of this state *shall*
15 specify the amount of support sought, convert that amount into the
16 equivalent amount in the foreign currency under applicable official or
17 market exchange rate as publicly reported, and provide any other
18 documents necessary to satisfy the requirements of the responding
19 foreign tribunal.

20 **§ 35305. Duties and Powers of Responding Tribunal.**

21 (a) When a responding tribunal of this state receives a petition
22 or comparable pleading from an initiating tribunal or directly pursuant
23 to § 35301(b), it *shall* cause the petition or pleading to be filed and
24 notify the petitioner where and when it was filed.

25 (b) A responding tribunal of this state, to the extent not
26 prohibited by other law, may do one (1) or more of the following:

1 (1) establish or enforce a support order, modify a child-
2 support order, determine the controlling child-support order, or
3 determine parentage of a child;

4 (2) order an obligor to comply with a support order,
5 specifying the amount and the manner of compliance;

6 (3) order income withholding;

7 (4) determine the amount of any arrearages, and specify a
8 method of payment;

9 (5) enforce orders by civil or criminal contempt, or both;

10 (6) set aside property for satisfaction of the support order;

11 (7) place liens and order execution on the obligor's
12 property;

13 (8) order an obligor to keep the tribunal informed of the
14 obligor's current residential address, electronic-mail address,
15 telephone number, employer, address of employment, and
16 telephone number at the place of employment;

17 (9) issue a bench warrant for an obligor who has failed
18 after proper notice to appear at a hearing ordered by the tribunal
19 and enter the bench warrant in any local and state computer
20 systems for criminal warrants;

21 (10) order the obligor to seek appropriate employment by
22 specified methods;

23 (11) award reasonable attorney's fees and other fees and
24 costs; and

25 (12) grant any other available remedy.

1 (c) A responding tribunal of this state *shall* include in a support
2 order issued under this Act, or in the documents accompanying the
3 order, the calculations on which the support order is based.

4 (d) A responding tribunal of this state may not condition the
5 payment of a support order issued under this act upon compliance by a
6 party with provisions for visitation.

7 (e) If a responding tribunal of this state issues an order under
8 this act, the tribunal *shall* send a copy of the order to the petitioner
9 and the respondent and to the initiating tribunal, if any.

10 (f) If requested to enforce a support order, arrears, or judgment
11 or modify a support order stated in a foreign currency, a responding
12 tribunal of this state *shall* convert the amount stated in the foreign
13 currency to the equivalent amount in dollars under the applicable
14 official or market exchange rate as publicly reported.

15 **§ 35306. Inappropriate Tribunal.** If a petition or comparable
16 pleading is received by an inappropriate tribunal of this state, the tribunal
17 *shall* forward the pleading and accompanying documents to an appropriate
18 tribunal of this state or another state and notify the petitioner where and
19 when the pleading was sent.

20 **§ 35307. Duties of Support Enforcement Agency.**

21 (a) In a proceeding under this Act, a support enforcement
22 agency of this state, upon request:

23 (1) *shall* provide services to a petitioner residing in a
24 state;

25 (2) *shall* provide services to a petitioner requesting
26 services through a central authority of a foreign country as
27 described in § 35102(5)(A) or (D); and

1 (3) may provide services to a petitioner who is an
2 individual not residing in a state.

3 (b) A support enforcement agency of this state that is providing
4 services to the petitioner *shall*:

5 (1) take all steps necessary to enable an appropriate
6 tribunal of this state, another state, or a foreign country to
7 obtain jurisdiction over the respondent;

8 (2) request an appropriate tribunal to set a date, time, and
9 place for a hearing;

10 (3) make a reasonable effort to obtain all relevant
11 information, including information as to income and property of
12 the parties;

13 (4) within two (2) days, exclusive of Saturdays, Sundays,
14 and legal holidays, after receipt of notice in a record from an
15 initiating, responding, or registering tribunal, send a copy of the
16 notice to the petitioner;

17 (5) within two (2) days, exclusive of Saturdays, Sundays,
18 and legal holidays, after receipt of communication in a record
19 from the respondent or the respondent's attorney, send a copy
20 of the communication to the petitioner; and

21 (6) notify the petitioner if jurisdiction over the
22 respondent cannot be obtained.

23 (c) A support enforcement agency of this state that requests
24 registration of a child-support order in this state for enforcement or for
25 modification *shall* make reasonable efforts:

26 (1) to ensure that the order to be registered is the
27 controlling order; or

1 (2) if two (2) or more child-support orders exist and the
2 identity of the controlling order has not been determined, to
3 ensure that a request for such a determination is made in a
4 tribunal having jurisdiction to do so.

5 (d) A support enforcement agency of this state that requests
6 registration and enforcement of a support order, arrears, or judgment
7 stated in a foreign currency *shall* convert the amounts stated in the
8 foreign currency into the equivalent amounts in dollars under the
9 applicable official or market exchange rate as publicly reported.

10 (e) A support enforcement agency of this state *shall* issue or
11 request a tribunal of this state to issue a child-support order and an
12 income-withholding order that redirect payment of current support,
13 arrears, and interest if requested to do so by a support enforcement
14 agency of another state pursuant to § 35319.

15 (f) This act does not create or negate a relationship of attorney
16 and client or other fiduciary relationship between a support
17 enforcement agency or the attorney for the agency and the individual
18 being assisted by the agency.

19 **§ 35308. Duty of Administrative Hearings Officer or Unified**
20 **Courts of Guam.**

21 (a) If the Administrative Hearings Officer or the Unified Courts
22 of Guam determine that the support enforcement agency is neglecting
23 or refusing to provide services to an individual, the Administrative
24 Hearings Officer or Unified Courts of Guam may order the agency to
25 perform its duties under this act or may provide those services directly
26 to the individual.

1 (b) The Administrative Hearings Officer or Unified Courts of
2 Guam may determine that a foreign country has established a
3 reciprocal arrangement for child support with this state and take
4 appropriate action for notification of the determination.

5 **§ 35309. Private Counsel.** An individual may employ private
6 counsel to represent the individual in proceedings authorized by this act.

7 **§ 35310. Duties of Child Support Enforcement Division.**

8 (a) The Child Support Enforcement Division is the state
9 information agency under this act.

10 (b) The state information agency *shall*:

11 (1) compile and maintain a current list, including
12 addresses, of the tribunals in this state which have jurisdiction
13 under this act and any support enforcement agencies in this
14 state and transmit a copy to the state information agency of
15 every other state;

16 (2) maintain a register of names and addresses of
17 tribunals and support enforcement agencies received from other
18 states;

19 (3) forward to the appropriate tribunal in the county in
20 the state in which the obligee who is an individual or the
21 obligor resides, or in which the obligor's property is believed to
22 be located, all documents concerning a proceeding under this
23 act received from another state or a foreign country; and

24 (4) obtain information concerning the location of the
25 obligor and the obligor's property within this state not exempt
26 from execution, by such means as postal verification and
27 federal or state locator services, examination of telephone

1 directories, requests for the obligor's address from employers,
2 and examination of governmental records, including, to the
3 extent not prohibited by other law, those relating to real
4 property, vital statistics, law enforcement, taxation, motor
5 vehicles, driver's licenses, and social security.

6 **§ 35311. Pleadings and Accompanying Documents.**

7 (a) In a proceeding under this act, a petitioner seeking to
8 establish a support order, to determine parentage of a child, or to
9 register and modify a support order of a tribunal of another state or a
10 foreign country must file a petition. Unless otherwise ordered under §
11 35312, the petition or accompanying documents must provide, so far
12 as known, the name, residential address, and social security numbers
13 of the obligor and the obligee or the parent and alleged parent, and the
14 name, sex, residential address, social security number, and date of
15 birth of each child for whose benefit support is sought or whose
16 parentage is to be determined. Unless filed at the time of registration,
17 the petition must be accompanied by a copy of any support order
18 known to have been issued by another tribunal. The petition may
19 include any other information that may assist in locating or identifying
20 the respondent.

21 (b) The petition must specify the relief sought. The petition and
22 accompanying documents must conform substantially with the
23 requirements imposed by the forms mandated by federal law for use
24 in cases filed by a support enforcement agency.

25 **§ 35312. Nondisclosure of Information in Exceptional**
26 **Circumstances.** If a party alleges in an affidavit or a pleading under oath
27 that the health, safety, or liberty of a party or child would be jeopardized by

1 disclosure of specific identifying information, that information must be
2 sealed and may not be disclosed to the other party or the public. After a
3 hearing in which a tribunal takes into consideration the health, safety, or
4 liberty of the party or child, the tribunal may order disclosure of information
5 that the tribunal determines to be in the interest of justice.

6 **§ 35313. Costs and Fees.**

7 (a) The petitioner may not be required to pay a filing fee or
8 other costs.

9 (b) If an obligee prevails, a responding tribunal of this state
10 may assess against an obligor filing fees, reasonable attorney’s fees,
11 other costs, and necessary travel and other reasonable expenses
12 incurred by the obligee and the obligee’s witnesses. The tribunal may
13 not assess fees, costs, or expenses against the obligee or the support
14 enforcement agency of either the initiating or responding state or
15 foreign country, except as provided by other law. Attorney’s fees may
16 be taxed as costs, and may be ordered paid directly to the attorney,
17 who may enforce the order in the attorney’s own name. Payment of
18 support owed to the obligee has priority over fees, costs, and
19 expenses.

20 (c) The tribunal *shall* order the payment of costs and reasonable
21 attorney’s fees if it determines that a hearing was requested primarily
22 for delay. In a proceeding under Article 6, a hearing is presumed to
23 have been requested primarily for delay if a registered support order is
24 confirmed or enforced without change.

25 **§ 35314. Limited Immunity of Petitioner.**

26 (a) Participation by a petitioner in a proceeding under this act
27 before a responding tribunal, whether in person, by private attorney,

1 or through services provided by the support enforcement agency, does
2 not confer personal jurisdiction over the petitioner in another
3 proceeding.

4 (b) A petitioner is not amenable to service of civil process while
5 physically present in this state to participate in a proceeding under this
6 act.

7 (c) The immunity granted by this section does not extend to
8 civil litigation based on acts unrelated to a proceeding under this act
9 committed by a party while physically present in this state to
10 participate in the proceeding.

11 **§ 35315. Nonparentage as Defense.** A party whose parentage of a
12 child has been previously determined by or pursuant to law may not plead
13 nonparentage as a defense to a proceeding under this act.

14 **§ 35316. Special Rules of Evidence and Procedure.**

15 (a) The physical presence of a nonresident party who is an
16 individual in a tribunal of this state is not required for the
17 establishment, enforcement, or modification of a support order or the
18 rendition of a judgment determining parentage of a child.

19 (b) An affidavit, a document substantially complying with
20 federally mandated forms, or a document incorporated by reference in
21 any of them, which would not be excluded under the hearsay rule if
22 given in person, is admissible in evidence if given under penalty of
23 perjury by a party or witness residing outside this state.

24 (c) A copy of the record of child-support payments certified as
25 a true copy of the original by the custodian of the record may be
26 forwarded to a responding tribunal. The copy is evidence of facts
27 asserted in it, and is admissible to show whether payments were made.

1 (d) Copies of bills for testing for parentage of a child, and for
2 prenatal and postnatal health care of the mother and child, furnished to
3 the adverse party at least 10 days before trial, are admissible in
4 evidence to prove the amount of the charges billed and that the
5 charges were reasonable, necessary, and customary.

6 (e) Documentary evidence transmitted from outside this state to
7 a tribunal of this state by telephone, telecopier, or other electronic
8 means that do not provide an original record may not be excluded
9 from evidence on an objection based on the means of transmission.

10 (f) In a proceeding under this act, a tribunal of this state *shall*
11 permit a party or witness residing outside this state to be deposed or to
12 testify under penalty of perjury by telephone, audiovisual means, or
13 other electronic means at a designated tribunal or other location. A
14 tribunal of this state *shall* cooperate with other tribunals in designating
15 an appropriate location for the deposition or testimony.

16 (g) If a party called to testify at a civil hearing refuses to answer
17 on the ground that the testimony may be self-incriminating, the trier of
18 fact may draw an adverse inference from the refusal.

19 (h) A privilege against disclosure of communications between
20 spouses does not apply in a proceeding under this act.

21 (i) The defense of immunity based on the relationship of
22 husband and wife or parent and child does not apply in a proceeding
23 under this act.

24 (j) A voluntary acknowledgment of paternity, certified as a true
25 copy, is admissible to establish parentage of the child.

26 **§ 35317. Communications Between Tribunals.** A tribunal of this
27 state may communicate with a tribunal outside this state in a record or by

1 telephone, electronic mail, or other means, to obtain information concerning
2 the laws, the legal effect of a judgment, decree, or order of that tribunal, and
3 the status of a proceeding. A tribunal of this state may furnish similar
4 information by similar means to a tribunal outside this state.

5 **§ 35318. Assistance with Discovery.** A tribunal of this state may:

6 (1) request a tribunal outside this state to assist in obtaining
7 discovery; and

8 (2) upon request, compel a person over which it has jurisdiction
9 to respond to a discovery order issued by a tribunal outside this state.

10 **§ 35319. Receipt and Disbursement of Payments.**

11 (a) A support enforcement agency or tribunal of this state *shall*
12 disburse promptly any amounts received pursuant to a support order,
13 as directed by the order. The agency or tribunal *shall* furnish to a
14 requesting party or tribunal of another state or a foreign country a
15 certified statement by the custodian of the record of the amounts and
16 dates of all payments received.

17 (b) If neither the obligor, nor the obligee who is an individual,
18 nor the child resides in this state, upon request from the support
19 enforcement agency of this state or another state, the support
20 enforcement agency of this state or a tribunal of this state *shall*:

21 (1) direct that the support payment be made to the
22 support enforcement agency in the state in which the obligee is
23 receiving services; and

24 (2) issue and send to the obligor's employer a
25 conforming income-withholding order or an administrative
26 notice of change of payee, reflecting the redirected payments.

1 (c) The support enforcement agency of this state receiving
2 redirected payments from another state pursuant to a law similar to
3 subsection (b) *shall* furnish to a requesting party or tribunal of the
4 other state a certified statement by the custodian of the record of the
5 amount and dates of all payments received.
6

7 ARTICLE 4

8 ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION 9 OF PARENTAGE

10 § 35401. Establishment of Support Order.

11 § 35402. Proceeding to Determine Parentage.
12

13 § 35401. Establishment of Support Order.

14 (a) If a support order entitled to recognition under this act has
15 not been issued, a responding tribunal of this state with personal
16 jurisdiction over the parties may issue a support order if:

17 (1) the individual seeking the order resides outside this
18 state; or

19 (2) the support enforcement agency seeking the order is
20 located outside this state.

21 (b) The tribunal may issue a temporary child-support order if
22 the tribunal determines that such an order is appropriate and the
23 individual ordered to pay is:

24 (1) a presumed father of the child;

25 (2) petitioning to have his paternity adjudicated;

26 (3) identified as the father of the child through genetic
27 testing;

1 (4) an alleged father who has declined to submit to
2 genetic testing;

3 (5) shown by clear and convincing evidence to be the
4 father of the child;

5 (6) an acknowledged father as provided by applicable
6 state law;

7 (7) the mother of the child; or

8 (8) an individual who has been ordered to pay child
9 support in a previous proceeding and the order has not been
10 reversed or vacated.

11 (c) Upon finding, after notice and opportunity to be
12 heard, that an obligor owes a duty of support, the tribunal *shall*
13 issue a support order directed to the obligor and may issue other
14 orders pursuant to § 35305.

15 **§ 35402. Proceeding to Determine Parentage.** A tribunal of this
16 state authorized to determine parentage of a child may serve as a responding
17 tribunal in a proceeding to determine parentage of a child brought under this
18 act or a law or procedure substantially similar to this act.

19
20 **ARTICLE 5**
21 **ENFORCEMENT OF SUPPORT ORDER WITHOUT**
22 **REGISTRATION**
23

24 § 35501. Employer's Receipt of Income-Withholding Order of Another
25 State.

26 § 35502. Employer's Compliance with Income-Withholding Order of
27 Another State.

- 1 § 35503. Employer’s Compliance with Two or More Income-
- 2 Withholding Orders.
- 3 § 35504. Immunity from Civil Liability.
- 4 § 35505. Penalties for Noncompliance.
- 5 § 35506. Contest by Obligor.
- 6 § 35507. Administrative Enforcement of Orders.

7

8 **§ 35501. Employer’s Receipt of Income-Withholding Order of**
9 **Another State.** An income-withholding order issued in another state may
10 be sent by or on behalf of the obligee, or by the support enforcement agency,
11 to the person defined as the obligor’s employer under the income-
12 withholding law of this state without first filing a petition or comparable
13 pleading or registering the order with a tribunal of this state.

14 **§ 35502. Employer’s Compliance with Income-Withholding**
15 **Order of Another State.**

16 (a) Upon receipt of an income-withholding order, the obligor’s
17 employer *shall* immediately provide a copy of the order to the obligor.

18 (b) The employer *shall* treat an income-withholding order
19 issued in another state which appears regular on its face as if it had
20 been issued by a tribunal of this state.

21 (c) Except as otherwise provided in subsection (d) and § 35503,
22 the employer *shall* withhold and distribute the funds as directed in the
23 withholding order by complying with terms of the order which
24 specify:

- 25 (1) the duration and amount of periodic payments of
26 current child support, stated as a sum certain;

1 (2) the person designated to receive payments and the
2 address to which the payments are to be forwarded;

3 (3) medical support, whether in the form of periodic cash
4 payment, stated as a sum certain, or ordering the obligor to
5 provide health insurance coverage for the child under a policy
6 available through the obligor's employment;

7 (4) the amount of periodic payments of fees and costs for
8 a support enforcement agency, the issuing tribunal, and the
9 obligee's attorney, stated as sums certain; and

10 (5) the amount of periodic payments of arrearages and
11 interest on arrearages, stated as sums certain.

12 (d) An employer *shall* comply with the law of the state of
13 the obligor's principal place of employment for withholding
14 from income with respect to:

15 (1) the employer's fee for processing an income-
16 withholding order;

17 (2) the maximum amount permitted to be withheld
18 from the obligor's income; and

19 (3) the times within which the employer must
20 implement the withholding order and forward the child-
21 support payment.

22 **§ 35503. Employer's Compliance with Two or More Income-**
23 **Withholding Orders.** If an obligor's employer receives two (2) or more
24 income-withholding orders with respect to the earnings of the same obligor,
25 the employer satisfies the terms of the orders if the employer complies with
26 the law of the state of the obligor's principal place of employment to

1 establish the priorities for withholding and allocating income withheld for
2 two (2) or more child-support obligees.

3 **§ 35504. Immunity from Civil Liability.** An employer that
4 complies with an income-withholding order issued in another state in
5 accordance with this article is not subject to civil liability to an individual or
6 agency with regard to the employer's withholding of child support from the
7 obligor's income.

8 **§ 35505. Penalties for Noncompliance.** An employer that willfully
9 fails to comply with an income-withholding order issued in another state and
10 received for enforcement is subject to the same penalties that may be
11 imposed for noncompliance with an order issued by a tribunal of this state.

12 **§ 35506. Contest by Obligor.**

13 (a) An obligor may contest the validity or enforcement of an
14 income-withholding order issued in another state and received directly
15 by an employer in this state by registering the order in a tribunal of
16 this state and filing a contest to that order as provided in Article 6, or
17 otherwise contesting the order in the same manner as if the order had
18 been issued by a tribunal of this state.

19 (b) The obligor *shall* give notice of the contest to:

20 (1) a support enforcement agency providing services to
21 the obligee;

22 (2) each employer that has directly received an income-
23 withholding order relating to the obligor; and

24 (3) the person designated to receive payments in the
25 income-withholding order or, if no person is designated, to the
26 obligee.

27 **§ 35507. Administrative Enforcement of Orders.**

1 (a) A party or support enforcement agency seeking to enforce a
2 support order or an income-withholding order, or both, issued in
3 another state or a foreign support order may send the documents
4 required for registering the order to a support enforcement agency of
5 this state.

6 (b) Upon receipt of the documents, the support enforcement
7 agency, without initially seeking to register the order, *shall* consider
8 and, if appropriate, use any administrative procedure authorized by
9 the law of this state to enforce a support order or an income-
10 withholding order, or both. If the obligor does not contest
11 administrative enforcement, the order need not be registered. If the
12 obligor contests the validity or administrative enforcement of the
13 order, the support enforcement agency *shall* register the order
14 pursuant to this act.

15
16 **ARTICLE 6**

17 **REGISTRATION, ENFORCEMENT, AND MODIFICATION OF**
18 **SUPPORT ORDER**

- 19
20 Part 1. Registration for Enforcement of Support Order.
21 Part 2. Contest of Validity or Enforcement.
22 Part 3. Registration and Modification of Child-Support Order of
23 Another State.
24 Part 4. Registration and Modification of Foreign Child-Support Order.

25
26 **PART 1**

27 **REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER**

- 1 § 35601. Registration of Order for Enforcement.
- 2 § 35602. Procedure to Register Order for Enforcement.
- 3 § 35603. Effect of Registration for Enforcement.
- 4 § 35604. Choice of Law.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

§ 35601. Registration of Order for Enforcement. A support order or income-withholding order issued in another state or a foreign support order may be registered in this state for enforcement.

§ 35602. Procedure to Register Order for Enforcement.

(a) Except as otherwise provided in § 35706, a support order or income-withholding order of another state or a foreign support order may be registered in this state by sending the following records to the appropriate tribunal in this state:

- (1) a letter of transmittal to the tribunal requesting registration and enforcement;
 - (2) two (2) copies, including one (1) certified copy, of the order to be registered, including any modification of the order;
 - (3) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
 - (4) the name of the obligor and, if known:
 - (A) the obligor’s address and social security number;
 - (B) the name and address of the obligor’s employer and any other source of income of the obligor;
- and

1 (C) a description and the location of property of
2 the obligor in this state not exempt from execution; and

3 (5) except as otherwise provided in § 35312, the name
4 and address of the obligee and, if applicable, the person to
5 whom support payments are to be remitted.

6 (b) On receipt of a request for registration, the registering
7 tribunal *shall* cause the order to be filed as an order of a tribunal of
8 another state or a foreign support order, together with one (1) copy of
9 the documents and information, regardless of their form.

10 (c) A petition or comparable pleading seeking a remedy that
11 must be affirmatively sought under other law of this state may be filed
12 at the same time as the request for registration or later. The pleading
13 must specify the grounds for the remedy sought.

14 (d) If two (2) or more orders are in effect, the person requesting
15 registration *shall*:

16 (1) furnish to the tribunal a copy of every support order
17 asserted to be in effect in addition to the documents specified in
18 this section;

19 (2) specify the order alleged to be the controlling order, if
20 any; and

21 (3) specify the amount of consolidated arrears, if any.

22 (e) A request for a determination of which is the controlling
23 order may be filed separately or with a request for registration and
24 enforcement or for registration and modification. The person
25 requesting registration *shall* give notice of the request to each party
26 whose rights may be affected by the determination.

27 **§ 35603. Effect of Registration for Enforcement.**

1 (a) A support order or income-withholding order issued in
2 another state or a foreign support order is registered when the order is
3 filed in the registering tribunal of this state.

4 (b) A registered support order issued in another state or a
5 foreign country is enforceable in the same manner and is subject to the
6 same procedures as an order issued by a tribunal of this state.

7 (c) Except as otherwise provided in this act, a tribunal of this
8 state *shall* recognize and enforce, but may not modify, a registered
9 support order if the issuing tribunal had jurisdiction.

10 **§ 35604. Choice of Law.**

11 (a) Except as otherwise provided in subsection (d), the law of
12 the issuing state or foreign country governs:

13 (1) the nature, extent, amount, and duration of current
14 payments under a registered support order;

15 (2) the computation and payment of arrearages and
16 accrual of interest on the arrearages under the support order;
17 and

18 (3) the existence and satisfaction of other obligations
19 under the support order.

20 (b) In a proceeding for arrears under a registered support order,
21 the statute of limitation of this state, or of the issuing state or foreign
22 country, whichever is longer, applies.

23 (c) A responding tribunal of this state *shall* apply the
24 procedures and remedies of this state to enforce current support and
25 collect arrears and interest due on a support order of another state or a
26 foreign country registered in this state.

1 (d) After a tribunal of this state or another state determines
2 which is the controlling order and issues an order consolidating
3 arrears, if any, a tribunal of this state *shall* prospectively apply the law
4 of the state or foreign country issuing the controlling order, including
5 its law on interest on arrears, on current and future support, and on
6 consolidated arrears.

7
8 **PART 2**

9 **CONTEST OF VALIDITY OR ENFORCEMENT**

10
11 § 35605. Notice of Registration of Order.

12 § 35606. Procedure to Contest Validity or Enforcement of Registered
13 Support Order.

14 § 35607. Contest of Registration or Enforcement.

15 § 35608. Confirmed Order.

16
17 **§ 35605. Notice of Registration of Order.**

18 (a) When a support order or income-withholding order issued in
19 another state or a foreign support order is registered, the registering
20 tribunal of this state *shall* notify the nonregistering party. The notice
21 must be accompanied by a copy of the registered order and the
22 documents and relevant information accompanying the order.

23 (b) A notice must inform the nonregistering party:

24 (1) that a registered support order is enforceable as of the
25 date of registration in the same manner as an order issued by a
26 tribunal of this state;

1 (2) that a hearing to contest the validity or enforcement
2 of the registered order must be requested within twenty (20)
3 days after notice unless the registered order is under § 35707;

4 (3) that failure to contest the validity or enforcement of
5 the registered order in a timely manner will result in
6 confirmation of the order and enforcement of the order and the
7 alleged arrearages; and

8 (4) of the amount of any alleged arrearages.

9 (c) If the registering party asserts that two (2) or more orders
10 are in effect, a notice must also:

11 (1) identify the two (2) or more orders and the order
12 alleged by the registering party to be the controlling order and
13 the consolidated arrears, if any;

14 (2) notify the nonregistering party of the right to a
15 determination of which is the controlling order;

16 (3) state that the procedures provided in subsection (b)
17 apply to the determination of which is the controlling order; and

18 (4) state that failure to contest the validity or enforcement
19 of the order alleged to be the controlling order in a timely
20 manner may result in confirmation that the order is the
21 controlling order.

22 (d) Upon registration of an income-withholding order for
23 enforcement, the support enforcement agency or the registering
24 tribunal *shall* notify the obligor's employer pursuant to the income-
25 withholding law of this state.

26 **§ 35606. Procedure to Contest Validity or Enforcement of**
27 **Registered Support Order.**

1 (a) A nonregistering party seeking to contest the validity or
2 enforcement of a registered support order in this state *shall* request a
3 hearing within the time required by § 35605. The nonregistering party
4 may seek to vacate the registration, to assert any defense to an
5 allegation of noncompliance with the registered order, or to contest
6 the remedies being sought or the amount of any alleged arrearages
7 pursuant to § 35607.

8 (b) If the nonregistering party fails to contest the validity or
9 enforcement of the registered support order in a timely manner, the
10 order is confirmed by operation of law.

11 (c) If a nonregistering party requests a hearing to contest the
12 validity or enforcement of the registered support order, the registering
13 tribunal *shall* schedule the matter for hearing and give notice to the
14 parties of the date, time, and place of the hearing.

15 **§ 35607. Contest of Registration or Enforcement.**

16 (a) A party contesting the validity or enforcement of a
17 registered support order or seeking to vacate the registration has the
18 burden of proving one (1) or more of the following defenses:

19 (1) the issuing tribunal lacked personal jurisdiction over
20 the contesting party;

21 (2) the order was obtained by fraud;

22 (3) the order has been vacated, suspended, or modified by
23 a later order;

24 (4) the issuing tribunal has stayed the order pending
25 appeal;

26 (5) there is a defense under the law of this state to the
27 remedy sought;

1 (6) full or partial payment has been made;

2 (7) the statute of limitation under § 35604 precludes
3 enforcement of some or all of the alleged arrearages; or

4 (8) the alleged controlling order is not the controlling
5 order.

6 (b) If a party presents evidence establishing a full or partial
7 defense under subsection (a), a tribunal may stay enforcement of a
8 registered support order, continue the proceeding to permit production
9 of additional relevant evidence, and issue other appropriate orders. An
10 uncontested portion of the registered support order may be enforced
11 by all remedies available under the law of this state.

12 (c) If the contesting party does not establish a defense under
13 subsection (a) to the validity or enforcement of a registered support
14 order, the registering tribunal *shall* issue an order confirming the
15 order.

16 **§ 35608. Confirmed Order.** Confirmation of a registered support
17 order, whether by operation of law or after notice and hearing, precludes
18 further contest of the order with respect to any matter that could have been
19 asserted at the time of registration.

20
21 **PART 3**

22 **REGISTRATION AND MODIFICATION OF CHILD-SUPPORT**
23 **ORDER OF ANOTHER STATE**

24
25 § 35609. Procedure to Register Child-Support Order of Another State for
26 Modification.

27 § 35610. Effect of Registration for Modification.

- 1 § 35611. Modification of Child-Support Order of Another State.
- 2 § 35612. Recognition of Order Modified in Another State.
- 3 § 35613. Jurisdiction to Modify Child-Support Order of Another State
- 4 When Individual Parties Reside in this State.
- 5 § 35614. Notice to Issuing Tribunal of Modification.

6

7 **§ 35609. Procedure to Register Child-Support Order of Another**

8 **State for Modification.** A party or support enforcement agency seeking to

9 modify, or to modify and enforce, a child-support order issued in another

10 state *shall* register that order in this state in the same manner provided in §§

11 35601 through 35608 if the order has not been registered. A petition for

12 modification may be filed at the same time as a request for registration, or

13 later. The pleading must specify the grounds for modification.

14 **§ 35610. Effect of Registration for Modification.** A tribunal of this

15 state may enforce a child-support order of another state registered for

16 purposes of modification, in the same manner as if the order had been issued

17 by a tribunal of this state, but the registered support order may be modified

18 only if the requirements of § 35611 or 35613 have been met.

19 **§ 35611. Modification of Child-Support Order of Another State.**

20 (a) If § 35613 does not apply, upon petition a tribunal of this

21 state may modify a child-support order issued in another state which

22 is registered in this state if, after notice and hearing, the tribunal finds

23 that:

- 24 (1) the following requirements are met:
 - 25 (A) neither the child, nor the obligee who is an
 - 26 individual, nor the obligor resides in the issuing state;

1 (B) a petitioner who is a nonresident of this state
2 seeks modification; and

3 (C) the respondent is subject to the personal
4 jurisdiction of the tribunal of this state; or

5 (2) this state is the residence of the child, or a party who
6 is an individual is subject to the personal jurisdiction of the
7 tribunal of this state, and all of the parties who are individuals
8 have filed consents in a record in the issuing tribunal for a
9 tribunal of this state to modify the support order and assume
10 continuing, exclusive jurisdiction.

11 (b) Modification of a registered child-support order is subject to
12 the same requirements, procedures, and defenses that apply to the
13 modification of an order issued by a tribunal of this state and the order
14 may be enforced and satisfied in the same manner.

15 (c) A tribunal of this state may not modify any aspect of a
16 child-support order that may not be modified under the law of the
17 issuing state, including the duration of the obligation of support. If
18 two (2) or more tribunals have issued child-support orders for the
19 same obligor and same child, the order that controls and must be so
20 recognized under § 35207 establishes the aspects of the support order
21 which are nonmodifiable.

22 (d) In a proceeding to modify a child-support order, the law of
23 the state that is determined to have issued the initial controlling order
24 governs the duration of the obligation of support. The obligor's
25 fulfillment of the duty of support established by that order precludes
26 imposition of a further obligation of support by a tribunal of this state.

1 (e) On the issuance of an order by a tribunal of this state
2 modifying a child-support order issued in another state, the tribunal of
3 this state becomes the tribunal having continuing, exclusive
4 jurisdiction.

5 (f) Notwithstanding subsections (a) through (e) and § 35201(b),
6 a tribunal of this state retains jurisdiction to modify an order issued by
7 a tribunal of this state if:

8 (1) one (1) party resides in another state; and

9 (2) the other party resides outside the United States.

10 **§ 35612. Recognition of Order Modified in Another State.** If a
11 child-support order issued by a tribunal of this state is modified by a tribunal
12 of another state which assumed jurisdiction pursuant to the Uniform
13 Interstate Family Support Act, a tribunal of this state:

14 (1) may enforce its order that was modified only as to arrears
15 and interest accruing before the modification;

16 (2) may provide appropriate relief for violations of its order
17 which occurred before the effective date of the modification; and

18 (3) *shall* recognize the modifying order of the other state, upon
19 registration, for the purpose of enforcement.

20 **§ 35613. Jurisdiction to Modify Child-Support Order of Another**
21 **State When Individual Parties Reside in this State.**

22 (a) If all of the parties who are individuals reside in this state
23 and the child does not reside in the issuing state, a tribunal of this state
24 has jurisdiction to enforce and to modify the issuing state's child-
25 support order in a proceeding to register that order.

26 (b) A tribunal of this state exercising jurisdiction under this
27 section *shall* apply the provisions of Articles 1 and 2, this Article, and

1 the procedural and substantive law of this state to the proceeding for
2 enforcement or modification. Articles 3, 4, 5, 7, and 8 do not apply.

3 **§ 35614. Notice to Issuing Tribunal of Modification.** Within thirty
4 (30) days after issuance of a modified child-support order, the party
5 obtaining the modification *shall* file a certified copy of the order with the
6 issuing tribunal that had continuing, exclusive jurisdiction over the earlier
7 order, and in each tribunal in which the party knows the earlier order has
8 been registered. A party who obtains the order and fails to file a certified
9 copy is subject to appropriate sanctions by a tribunal in which the issue of
10 failure to file arises. The failure to file does not affect the validity or
11 enforceability of the modified order of the new tribunal having continuing,
12 exclusive jurisdiction.

13
14 **PART 4**

15 **REGISTRATION AND MODIFICATION OF FOREIGN CHILD-**
16 **SUPPORT ORDER**

17
18 § 35615. Jurisdiction to Modify Child-Support Order of Foreign
19 Country.

20 § 35616. Procedure to Register Child-Support Order of Foreign Country
21 for Modification.

22
23 **§ 35615. Jurisdiction to Modify Child-Support Order of Foreign**
24 **Country.**

25 (a) Except as otherwise provided in § 35711, if a foreign
26 country lacks or refuses to exercise jurisdiction to modify its child-
27 support order pursuant to its laws, a tribunal of this state may assume

1 jurisdiction to modify the child-support order and bind all individuals
2 subject to the personal jurisdiction of the tribunal whether the consent
3 to modification of a child-support order otherwise required of the
4 individual pursuant to § 35611 has been given or whether the
5 individual seeking modification is a resident of this state or of the
6 foreign country.

7 (b) An order issued by a tribunal of this state modifying a
8 foreign child-support order pursuant to this section is the controlling
9 order.

10 **§ 35616. Procedure to Register Child-Support Order of Foreign**
11 **Country for Modification.** A party or support enforcement agency seeking
12 to modify, or to modify and enforce, a foreign child-support order not under
13 the Convention may register that order in this state under §§ 35601 through
14 35608 if the order has not been registered. A petition for modification may
15 be filed at the same time as a request for registration, or at another time. The
16 petition must specify the grounds for modification.

17 18 **ARTICLE 7**

19 **SUPPORT PROCEEDING UNDER CONVENTION**

- 20
- 21 § 35701. Definitions.
- 22 § 35702. Applicability.
- 23 § 35703. Relationship of Child Support Enforcement Division to United
24 States Central Authority.
- 25 § 35704. Initiation by Child Support Enforcement Division of Support
26 Proceeding under Convention
- 27 § 35705. Direct Request.

- 1 § 35706. Registration of Convention Support Order.
2 § 35707. Contest of Registered Convention Support Order.
3 § 35708. Recognition and Enforcement of Registered Convention
4 Support Order.
5 § 35709. Partial Enforcement.
6 § 35710. Foreign Support Agreement.
7 § 35711. Modification of Convention Child-Support Order.
8 § 35712. Personal Information; Limit on Use.
9 § 35713. Record in Original Language; English Translation.

10

11 § 35701. **Definitions.** In this article:

12 (1) *Application* means a request under the Convention by an
13 obligee or obligor, or on behalf of a child, made through a central
14 authority for assistance from another central authority.

15 (2) *Central authority* means the entity designated by the United
16 States or a foreign country described in § 35102(5)(D) to perform the
17 functions specified in the Convention.

18 (3) *Convention support order* means a support order of a
19 tribunal of a foreign country described in § 35102(5)(D).

20 (4) *Direct request* means a petition filed by an individual in a
21 tribunal of this state in a proceeding involving an obligee, obligor, or
22 child residing outside the United States.

23 (5) *Foreign central authority* means the entity designated by a
24 foreign country described in § 35102(5)(D) to perform the functions
25 specified in the Convention.

26 (6) *Foreign support agreement*:

27 (A) means an agreement for support in a record that:

1 (i) is enforceable as a support order in the country
2 of origin;

3 (ii) has been:

4 (I) formally drawn up or registered as an
5 authentic instrument by a foreign tribunal; or

6 (II) authenticated by, or concluded,
7 registered, or filed with a foreign tribunal; and

8 (iii) may be reviewed and modified by a foreign
9 tribunal; and

10 (B) includes a maintenance arrangement or authentic
11 instrument under the Convention.

12 (7) *United States central authority* means the Secretary of the
13 United States Department of Health and Human Services.

14 **§ 35702. Applicability.** This Article applies only to a support
15 proceeding under the Convention. In such a proceeding, if a provision of this
16 Article is inconsistent with Articles 1 through 6, this Article controls.

17 **§ 35703. Relationship of Child Support Enforcement Division to**
18 **United States Central Authority.** The Child Support Enforcement
19 Division of this territory is recognized as the agency designated by the
20 United States central authority to perform specific functions under the
21 Convention.

22 **§ 35704. Initiation by Child Support Enforcement Division of**
23 **Support Proceeding under Convention.**

24 (a) In a support proceeding under this article, the Child Support
25 Enforcement Division of this state *shall*:

26 (1) transmit and receive applications; and

1 (2) initiate or facilitate the institution of a proceeding
2 regarding an application in a tribunal of this state.

3 (b) The following support proceedings are available to an
4 obligee under the Convention:

5 (1) recognition or recognition and enforcement of a
6 foreign support order;

7 (2) enforcement of a support order issued or recognized
8 in this state;

9 (3) establishment of a support order if there is no existing
10 order, including, if necessary, determination of parentage of a
11 child;

12 (4) establishment of a support order if recognition of a
13 foreign support order is refused under § 35708(b)(2), (4), or (9);

14 (5) modification of a support order of a tribunal of this
15 state; and

16 (6) modification of a support order of a tribunal of
17 another state or a foreign country.

18 (c) The following support proceedings are available under the
19 Convention to an obligor against which there is an existing support
20 order:

21 (1) recognition of an order suspending or limiting
22 enforcement of an existing support order of a tribunal of this
23 state;

24 (2) modification of a support order of a tribunal of this
25 state; and

26 (3) modification of a support order of a tribunal of
27 another state or a foreign country.

1 (d) A tribunal of this state may not require security, bond, or
2 deposit, however described, to guarantee the payment of costs and
3 expenses in proceedings under the Convention.

4 **§ 35705. Direct Request.**

5 (a) A petitioner may file a direct request seeking establishment
6 or modification of a support order or determination of parentage of a
7 child. In the proceeding, the law of this state applies.

8 (b) A petitioner may file a direct request seeking recognition
9 and enforcement of a support order or support agreement. In the
10 proceeding, §§ 35706 through 35713 apply.

11 (c) In a direct request for recognition and enforcement of a
12 Convention support order or foreign support agreement:

13 (1) a security, bond, or deposit is not required to
14 guarantee the payment of costs and expenses; and

15 (2) an obligee or obligor that in the issuing country has
16 benefited from free legal assistance is entitled to benefit, at least
17 to the same extent, from any free legal assistance provided for
18 by the law of this state under the same circumstances.

19 (d) A petitioner filing a direct request is not entitled to
20 assistance from the Child Support Enforcement Division.

21 (e) This article does not prevent the application of laws of this
22 state that provide simplified, more expeditious rules regarding a direct
23 request for recognition and enforcement of a foreign support order or
24 foreign support agreement.

25 **§ 35706. Registration of Convention Support Order.**

26 (a) Except as otherwise provided in this Article, a party who is
27 an individual or a support enforcement agency seeking recognition of

1 a Convention support order *shall* register the order in this state as
2 provided in Article 6.

3 (b) Notwithstanding §§ 35311 and 35602(a), a request for
4 registration of a Convention support order must be accompanied by:

5 (1) a complete text of the support order or an abstract or
6 extract of the support order drawn up by the issuing foreign
7 tribunal, which may be in the form recommended by the Hague
8 Conference on Private International Law;

9 (2) a record stating that the support order is enforceable
10 in the issuing country;

11 (3) if the respondent did not appear and was not
12 represented in the proceedings in the issuing country, a record
13 attesting, as appropriate, either that the respondent had proper
14 notice of the proceedings and an opportunity to be heard or that
15 the respondent had proper notice of the support order and an
16 opportunity to be heard in a challenge or appeal on fact or law
17 before a tribunal;

18 (4) a record showing the amount of arrears, if any, and
19 the date the amount was calculated;

20 (5) a record showing a requirement for automatic
21 adjustment of the amount of support, if any, and the
22 information necessary to make the appropriate calculations; and

23 (6) if necessary, a record showing the extent to which the
24 applicant received free legal assistance in the issuing country.

25 (c) A request for registration of a Convention support order
26 may seek recognition and partial enforcement of the order.

1 (d) A tribunal of this state may vacate the registration of a
2 Convention support order without the filing of a contest under §
3 35707 only if, acting on its own motion, the tribunal finds that
4 recognition and enforcement of the order would be manifestly
5 incompatible with public policy.

6 (e) The tribunal *shall* promptly notify the parties of the
7 registration or the order vacating the registration of a Convention
8 support order.

9 **§ 35707. Contest of Registered Convention Support Order.**

10 (a) Except as otherwise provided in this Article, §§ 35605
11 through 35608 apply to a contest of a registered Convention support
12 order.

13 (b) A party contesting a registered Convention support order
14 *shall* file a contest not later than 30 days after notice of the
15 registration, but if the contesting party does not reside in the United
16 States, the contest must be filed not later than 60 days after notice of
17 the registration.

18 (c) If the nonregistering party fails to contest the registered
19 Convention support order by the time specified in subsection (b), the
20 order is enforceable.

21 (d) A contest of a registered Convention support order may be
22 based only on grounds set forth in § 35708. The contesting party bears
23 the burden of proof.

24 (e) In a contest of a registered Convention support order, a
25 tribunal of this state:

26 (1) is bound by the findings of fact on which the foreign
27 tribunal based its jurisdiction; and

1 (2) may not review the merits of the order.

2 (f) A tribunal of this state deciding a contest of a registered
3 Convention support order *shall* promptly notify the parties of its
4 decision.

5 (g) A challenge or appeal, if any, does not stay the enforcement
6 of a Convention support order unless there are exceptional
7 circumstances.

8 **§ 35708. Recognition and Enforcement of Registered Convention**
9 **Support Order.**

10 (a) Except as otherwise provided in subsection (b), a tribunal of
11 this state *shall* recognize and enforce a registered Convention support
12 order.

13 (b) The following grounds are the only grounds on which a
14 tribunal of this state may refuse recognition and enforcement of a
15 registered Convention support order:

16 (1) recognition and enforcement of the order is
17 manifestly incompatible with public policy, including the
18 failure of the issuing tribunal to observe minimum standards of
19 due process, which include notice and an opportunity to be
20 heard;

21 (2) the issuing tribunal lacked personal jurisdiction
22 consistent with § 35201;

23 (3) the order is not enforceable in the issuing country;

24 (4) the order was obtained by fraud in connection with a
25 matter of procedure;

26 (5) a record transmitted in accordance with § 35706 lacks
27 authenticity or integrity;

1 (6) a proceeding between the same parties and having the
2 same purpose is pending before a tribunal of this state and that
3 proceeding was the first to be filed;

4 (7) the order is incompatible with a more recent support
5 order involving the same parties and having the same purpose if
6 the more recent support order is entitled to recognition and
7 enforcement under this act in this state;

8 (8) payment, to the extent alleged arrears have been paid
9 in whole or in part;

10 (9) in a case in which the respondent neither appeared
11 nor was represented in the proceeding in the issuing foreign
12 country:

13 (A) if the law of that country provides for prior
14 notice of proceedings, the respondent did not have proper
15 notice of the proceedings and an opportunity to be heard;
16 or

17 (B) if the law of that country does not provide for
18 prior notice of the proceedings, the respondent did not
19 have proper notice of the order and an opportunity to be
20 heard in a challenge or appeal on fact or law before a
21 tribunal; or

22 (10) the order was made in violation of § 35711.

23 (c) If a tribunal of this state does not recognize a Convention
24 support order under subsections (b)(2), (4), or (9):

25 (1) the tribunal may not dismiss the proceeding without
26 allowing a reasonable time for a party to request the
27 establishment of a new Convention support order; and

1 (2) the Child Support Enforcement Division *shall* take all
2 appropriate measures to request a child-support order for the
3 obligee if the application for recognition and enforcement was
4 received under § 35704.

5 **§ 35709. Partial Enforcement.** If a tribunal of this state does not
6 recognize and enforce a Convention support order in its entirety, it *shall*
7 enforce any severable part of the order. An application or direct request may
8 seek recognition and partial enforcement of a Convention support order.

9 **§ 35710. Foreign Support Agreement.**

10 (a) Except as otherwise provided in subsections (c) and (d), a
11 tribunal of this state *shall* recognize and enforce a foreign support
12 agreement registered in this state.

13 (b) An application or direct request for recognition and
14 enforcement of a foreign support agreement must be accompanied by:

15 (1) a complete text of the foreign support agreement; and

16 (2) a record stating that the foreign support agreement is
17 enforceable as an order of support in the issuing country.

18 (c) A tribunal of this state may vacate the registration of a
19 foreign support agreement only if, acting on its own motion, the
20 tribunal finds that recognition and enforcement would be manifestly
21 incompatible with public policy.

22 (d) In a contest of a foreign support agreement, a tribunal of this
23 state may refuse recognition and enforcement of the agreement if it
24 finds:

25 (1) recognition and enforcement of the agreement is
26 manifestly incompatible with public policy;

27 (2) the agreement was obtained by fraud or falsification;

1 (3) the agreement is incompatible with a support order
2 involving the same parties and having the same purpose in this
3 state, another state, or a foreign country if the support order is
4 entitled to recognition and enforcement under this act in this
5 state; or

6 (4) the record submitted under subsection (b) lacks
7 authenticity or integrity.

8 (e) A proceeding for recognition and enforcement of a foreign
9 support agreement must be suspended during the pendency of a
10 challenge to or appeal of the agreement before a tribunal of another
11 state or a foreign country.

12 **§ 35711. Modification of Convention Child-Support Order.**

13 (a) A tribunal of this state may not modify a Convention child-
14 support order if the obligee remains a resident of the foreign country
15 where the support order was issued unless:

16 (1) the obligee submits to the jurisdiction of a tribunal of
17 this state, either expressly or by defending on the merits of the
18 case without objecting to the jurisdiction at the first available
19 opportunity; or

20 (2) the foreign tribunal lacks or refuses to exercise
21 jurisdiction to modify its support order or issue a new support
22 order.

23 (b) If a tribunal of this state does not modify a Convention
24 child-support order because the order is not recognized in this state, §
25 35708(c) applies.

1 (c) A provision for extradition of individuals not inconsistent
2 with this act applies to the demand even if the individual whose
3 surrender is demanded was not in the demanding state when the crime
4 was allegedly committed and has not fled therefrom.

5 **§ 35802. Conditions of Rendition.**

6 (a) Before making a demand that the governor of another state
7 surrender an individual charged criminally in this state with having
8 failed to provide for the support of an obligee, the governor of this
9 state may require a prosecutor of this state to demonstrate that at least
10 sixty (60) days previously the obligee had initiated proceedings for
11 support pursuant to this act or that the proceeding would be of no
12 avail.

13 (b) If, under this act or a law substantially similar to this act, the
14 governor of another state makes a demand that the governor of this
15 state surrender an individual charged criminally in that state with
16 having failed to provide for the support of a child or other individual
17 to whom a duty of support is owed, the governor may require a
18 prosecutor to investigate the demand and report whether a proceeding
19 for support has been initiated or would be effective. If it appears that a
20 proceeding would be effective but has not been initiated, the governor
21 may delay honoring the demand for a reasonable time to permit the
22 initiation of a proceeding.

23 (c) If a proceeding for support has been initiated and the
24 individual whose rendition is demanded prevails, the governor may
25 decline to honor the demand. If the petitioner prevails and the
26 individual whose rendition is demanded is subject to a support order,

1 the governor may decline to honor the demand if the individual is
2 complying with the support order.

3
4 **ARTICLE 9**

5 **MISCELLANEOUS PROVISIONS**

6
7 § 35901. Uniformity of Application and Construction.

8 § 35902. Transitional Provision.

9 § 35903. Severability.

10 § 35904. Repeals.

11 § 35905. Effective Date.

12
13 **§ 35901. Uniformity of Application and Construction.** In applying
14 and construing this uniform act, consideration must be given to the need to
15 promote uniformity of the law with respect to its subject matter among states
16 that enact it.

17 **§ 35902. Transitional Provision.** This Act applies to proceedings
18 begun on or after the effective date of this Act to establish a support order or
19 determine parentage of a child or to register, recognize, enforce, or modify a
20 prior support order, determination, or agreement, whenever issued or
21 entered.

22 **§ 35903. Severability.** *If* any provision of this Act or its application
23 to any person or circumstance is held invalid, the invalidity *shall not* affect
24 other provisions or applications of this Act which can be given effect
25 without the invalid provision or application and to this end the provisions of
26 this Act are severable.

27 **§ 35904. Repeals.** The following are repealed:

1 (1) The entirety of Title 5, Chapter 35 of the Guam Code
2 Annotated, which is being replaced by this Act.

3 § 35905. **Effective Date.** This Act *shall* become effective upon
4 enactment.”