

1 reasonably calculated to give actual notice but may be by publication
2 if other means are not effective.

3 (b) Proof of service may be made in the manner prescribed by the law
4 of this Territory or by the law of the State in which the service is
5 made.

6 (c) Notice is not required for the exercise of jurisdiction with respect
7 to a person who submits to the jurisdiction of the court.

8 **SECTION 109. APPEARANCE AND LIMITED IMMUNITY.** (a) A
9 party to a child-custody proceeding, including a modification
10 proceeding, or a petitioner or respondent in a proceeding to enforce
11 or register a child-custody determination, is not subject to personal
12 jurisdiction in this Territory for another proceeding or purpose solely
13 by reason of having participated, or of having been physically
14 present for the purpose of participating, in the proceeding.

15 (b) A person who is subject to personal jurisdiction in this Territory
16 on a basis other than physical presence is not immune from service of
17 process in this Territory. A party present in this Territory who is
18 subject to the jurisdiction of another State is not immune from service
19 of process allowable under the laws of that State.

20 (c) The immunity granted by subsection (a) does not extend to civil
21 litigation based on acts unrelated to the participation in a proceeding

1 under this Act committed by an individual while present in this
2 Territory.

3 **SECTION 110. COMMUNICATION BETWEEN COURTS.** (a) A
4 court of this Territory may communicate with a court in another State
5 concerning a proceeding arising under this Act.

6 (b) The court may allow the parties to participate in the
7 communication. If the parties are not able to participate in the
8 communication, they must be given the opportunity to present facts
9 and legal arguments before a decision on jurisdiction is made.

10 (c) Communication between courts on schedules, calendars, court
11 records, and similar matters may occur without informing the parties.
12 A record need not be made of the communication.

13 (d) Except as otherwise provided in subsection (c), a record must be
14 made of a communication under this section. The parties must be
15 informed promptly of the communication and granted access to the
16 record.

17 (e) For the purposes of this section, "record" means information that
18 is inscribed on a tangible medium or that is stored in an electronic or
19 other medium and is retrievable in perceivable form.

20 **SECTION 111. TAKING TESTIMONY IN ANOTHER STATE.** (a)
21 In addition to other procedures available to a party, a party to a
22 child-custody proceeding may offer testimony of witnesses who are

1 located in another State, including testimony of the parties and the
2 child, by deposition or other means allowable in this Territory for
3 testimony taken in another State. The court on its own motion may
4 order that the testimony of a person be taken in another State and
5 may prescribe the manner in which and the terms upon which the
6 testimony is taken.

7 (b) A court of this Territory may permit an individual residing in
8 another State to be deposed or to testify by telephone, audiovisual
9 means, or other electronic means before a designated court or at
10 another location in that State. A court of this Territory shall cooperate
11 with courts of other States in designating an appropriate location for
12 the deposition or testimony.

13 (c) Documentary evidence transmitted from another State to a court
14 of this Territory by technological means that do not produce an
15 original writing may not be excluded from evidence on an objection
16 based on the means of transmission.

17 **SECTION 112. COOPERATION BETWEEN COURTS;**
18 **PRESERVATION OF RECORDS.** (a) A court of this Territory may
19 request the appropriate court of another State to:

20 (1) hold an evidentiary hearing;

21 (2) order a person to produce or give evidence pursuant to
22 procedures of that State;

1 (3) order that an evaluation be made with respect to the
2 custody of a child involved in a pending proceeding;

3 (4) forward to the court of this Territory a certified copy of the
4 transcript of the record of the hearing, the evidence otherwise
5 presented, and any evaluation prepared in compliance with the
6 request; and

7 (5) order a party to a child-custody proceeding or any person
8 having physical custody of the child to appear in the
9 proceeding with or without the child.

10 (b) Upon request of a court of another State, a court of this Territory
11 may hold a hearing or enter an order described in subsection (a).

12 (c) Travel and other necessary and reasonable expenses incurred
13 under subsections (a) and (b) may be assessed against the parties
14 according to the law of this Territory.

15 (d) The Superior Court of Guam shall preserve the pleadings, orders,
16 decrees, records of hearings, evaluations, and other pertinent records
17 with respect to a child-custody proceeding until the child attains 18
18 years of age. Upon appropriate request by a court or law enforcement
19 official of another State, the court shall forward a certified copy of
20 those records.

21 **ARTICLE 2**

22 **JURISDICTION**

1 SECTION 201. INITIAL CHILD-CUSTODY JURISDICTION. (a)
2 Except as otherwise provided in Section 204, the Superior Court of
3 Guam has jurisdiction to make an initial child-custody determination
4 only if:

5 (1) this Territory is the home State of the child on the date of the
6 commencement of the proceeding, or was the home State of the
7 child within six months before the commencement of the
8 proceeding and the child is absent from this Territory but a
9 parent or person acting as a parent continues to live in this
10 Territory;

11 (2) a court of another State does not have jurisdiction under
12 paragraph (1), or a court of the home State of the child has
13 declined to exercise jurisdiction on the ground that this
14 Territory is the more appropriate forum under Section 207 or
15 208, and:

16 (A) the child and the child's parents, or the child and at
17 least one parent or a person acting as a parent, have a
18 significant connection with this Territory other than mere
19 physical presence; and

20 (B) substantial evidence is available in this Territory
21 concerning the child's care, protection, training, and
22 personal relationships;

1 (3) all courts having jurisdiction under paragraph (1) or (2)
2 have declined to exercise jurisdiction on the ground that the
3 Superior Court of Guam is the more appropriate forum to
4 determine the custody of the child under Section 207 or 208; or

5 (4) no court of any other State would have jurisdiction under
6 the criteria specified in paragraph (1), (2), or (3).

7 (b) Subsection (a) is the exclusive jurisdictional basis for making a
8 child-custody determination by the Superior Court of Guam.

9 (c) Physical presence of, or personal jurisdiction over, a party or a
10 child is not necessary or sufficient to make a child-custody
11 determination.

12 **SECTION 202. EXCLUSIVE, CONTINUING JURISDICTION.** (a)
13 Except as otherwise provided in Section 204, a court of this Territory
14 which has made a child-custody determination consistent with
15 Section 201 or 203 has exclusive, continuing jurisdiction over the
16 determination until:

17 (1) a court of this Territory determines that neither the child,
18 the child's parents, and any person acting as a parent do not
19 have a significant connection with this Territory and that
20 substantial evidence is no longer available in this Territory
21 concerning the child's care, protection, training, and personal
22 relationships; or

1 (2) a court of this Territory or a court of another State
2 determines that the child, the child's parents, and any person
3 acting as a parent do not presently reside in this Territory.

4 (b) A court of this Territory which has made a child-custody
5 determination and does not have exclusive, continuing jurisdiction
6 under this section may modify that determination only if it has
7 jurisdiction to make an initial determination under Section 201.

8 **SECTION 203. JURISDICTION TO MODIFY DETERMINATION.**

9 Except as otherwise provided in Section 204, the Superior Court of
10 Guam may not modify a child-custody determination made by a
11 court of another State unless the Superior Court of Guam has
12 jurisdiction to make an initial determination under Section 201(a)(1)
13 or (2) and:

14 (1) the court of the other State determines it no longer has
15 exclusive, continuing jurisdiction under Section 202 or that the
16 Superior Court of Guam would be a more convenient forum
17 under Section 207; or

18 (2) the Superior Court of Guam or a court of the other State
19 determines that the child, the child's parents, and any person
20 acting as a parent do not presently reside in the other State.

21 **SECTION 204. TEMPORARY EMERGENCY JURISDICTION. (a)**

22 The Superior Court of Guam has temporary emergency jurisdiction if

1 the child is present in this Territory and the child has been
2 abandoned or it is necessary in an emergency to protect the child
3 because the child, or a sibling or parent of the child, is subjected to or
4 threatened with mistreatment or abuse.

5 (b) If there is no previous child-custody determination that is entitled
6 to be enforced under this Act and a child-custody proceeding has not
7 been commenced in a court of a State having jurisdiction under
8 Sections 201 through 203, a child-custody determination made under
9 this section remains in effect until an order is obtained from a court of
10 a State having jurisdiction under Sections 201 through 203. If a child-
11 custody proceeding has not been or is not commenced in a court of a
12 State having jurisdiction under Sections 201 through 203, a child-
13 custody determination made under this section becomes a final
14 determination, if it so provides and this Territory becomes the home
15 State of the child.

16 (c) If there is a previous child-custody determination that is entitled
17 to be enforced under this Act, or a child-custody proceeding has been
18 commenced in a court of a State having jurisdiction under Sections
19 201 through 203, any order issued by a court of this Territory under
20 this section must specify in the order a period that the court considers
21 adequate to allow the person seeking an order to obtain an order
22 from the State having jurisdiction under Sections 201 through 203.
23 The order issued in this Territory remains in effect until an order is

1 obtained from the other State within the period specified or the
2 period expires.

3 (d) A court of this Territory which has been asked to make a child-
4 custody determination under this section, upon being informed that a
5 child-custody proceeding has been commenced in, or a child-custody
6 determination has been made by, a court of a State having
7 jurisdiction under Sections 201 through 203, shall immediately
8 communicate with the other court. A court of this Territory which is
9 exercising jurisdiction pursuant to Sections 201 through 203, upon
10 being informed that a child-custody proceeding has been commenced
11 in, or a child-custody determination has been made by, a court of
12 another State under a statute similar to this section shall immediately
13 communicate with the court of that State to resolve the emergency,
14 protect the safety of the parties and the child, and determine a period
15 for the duration of the temporary order.

16 **SECTION 205. NOTICE; OPPORTUNITY TO BE HEARD;**
17 **JOINDER.** (a) Before a child-custody determination is made under
18 this Act, notice and an opportunity to be heard in accordance with
19 the standards of Section 108 must be given to all persons entitled to
20 notice under the law of this Territory as in child-custody proceedings
21 between residents of this Territory, any parent whose parental rights
22 have not been previously terminated, and any person having
23 physical custody of the child.

1 (b) This Act does not govern the enforceability of a child-custody
2 determination made without notice or an opportunity to be heard.

3 (c) The obligation to join a party and the right to intervene as a party
4 in a child-custody proceeding under this Act are governed by the law
5 of this Territory as in child-custody proceedings between residents of
6 this Territory.

7 **SECTION 206. SIMULTANEOUS PROCEEDINGS.** (a) Except as
8 otherwise provided in Section 204, the Superior Court of Guam may
9 not exercise its jurisdiction under this Article if, at the time of the
10 commencement of the proceeding, a proceeding concerning the
11 custody of the child has been commenced in a court of another State
12 having jurisdiction substantially in conformity with this Act, unless
13 the proceeding has been terminated or is stayed by the court of the
14 other State because the Superior Court of Guam is a more convenient
15 forum under Section 207.

16 (b) Except as otherwise provided in Section 204, the Superior Court of
17 Guam, before hearing a child-custody proceeding, shall examine the
18 court documents and other information supplied by the parties
19 pursuant to Section 209. If the court determines that a child-custody
20 proceeding has been commenced in a court in another State having
21 jurisdiction substantially in accordance with this Act, the court of this
22 Territory shall stay its proceeding and communicate with the court of
23 the other State. If the court of the State having jurisdiction

1 substantially in accordance with this Act does not determine that the
2 court of this Territory is a more appropriate forum, the court of this
3 Territory shall dismiss the proceeding.

4 (c) In a proceeding to modify a child-custody determination, the
5 Superior Court of Guam shall determine whether a proceeding to
6 enforce the determination has been commenced in another State. If a
7 proceeding to enforce a child-custody determination has been
8 commenced in another State, the court may:

9 (1) stay the proceeding for modification pending the entry of an
10 order of a court of the other State enforcing, staying, denying,
11 or dismissing the proceeding for enforcement;

12 (2) enjoin the parties from continuing with the proceeding for
13 enforcement; or

14 (3) proceed with the modification under conditions it considers
15 appropriate.

16 **SECTION 207. INCONVENIENT FORUM.** (a) The Superior Court
17 of Guam may decline to exercise its jurisdiction at any time if it
18 determines that it is an inconvenient forum under the circumstances
19 and that a court of another State is a more appropriate forum. The
20 issue of inconvenient forum may be raised upon motion of a party,
21 the court's own motion, or request of another court.

1 (b) Before determining whether it is an inconvenient forum, the
2 Superior Court of Guam shall consider whether it is appropriate for a
3 court of another State to exercise jurisdiction. For this purpose, the
4 court shall allow the parties to submit information and shall consider
5 all relevant factors, including:

6 (1) whether domestic violence has occurred and is likely to
7 continue in the future and which State could best protect the
8 parties and the child;

9 (2) the length of time the child has resided outside this Territory;

10 (3) the distance between the court in this Territory and the court
11 in the State that would assume jurisdiction;

12 (4) the relative financial circumstances of the parties;

13 (5) any agreement of the parties as to which State should
14 assume jurisdiction;

15 (6) the nature and location of the evidence required to resolve
16 the pending litigation, including testimony of the child;

17 (7) the ability of the court of each State to decide the issue
18 expeditiously and the procedures necessary to present the
19 evidence; and

20 (8) the familiarity of the court of each State with the facts and
21 issues in the pending litigation.

1 (c) If the Superior Court of Guam determines that it is an
2 inconvenient forum and that a court of another State is a more
3 appropriate forum, it shall stay the proceedings upon condition that a
4 child-custody proceeding be promptly commenced in another
5 designated State and may impose any other condition the court
6 considers just and proper.

7 (d) The Superior Court of Guam may decline to exercise its
8 jurisdiction under this Act if a child-custody determination is
9 incidental to an action for divorce or another proceeding while still
10 retaining jurisdiction over the divorce or other proceeding.

11 **SECTION 208. JURISDICTION DECLINED BY REASON OF**
12 **CONDUCT.** (a) Except as otherwise provided in Section 204 or by
13 other law of this Territory, if the Superior Court of Guam has
14 jurisdiction under this Act because a person seeking to invoke its
15 jurisdiction has engaged in unjustifiable conduct, the court shall
16 decline to exercise its jurisdiction unless:

17 (1) the parents and all persons acting as parents have
18 acquiesced in the exercise of jurisdiction;

19 (2) a court of the State otherwise having jurisdiction under
20 Sections 201 through 203 determines that this Territory is a
21 more appropriate forum under Section 207; or

1 (3) no court of any other State would have jurisdiction under
2 the criteria specified in Sections 201 through 203.

3 (b) If the Superior Court of Guam declines to exercise its jurisdiction
4 pursuant to subsection (a), it may fashion an appropriate remedy to
5 ensure the safety of the child and prevent a repetition of the
6 unjustifiable conduct, including staying the proceeding until a child-
7 custody proceeding is commenced in a court having jurisdiction
8 under Sections 201 through 203.

9 (c) If a court dismisses a petition or stays a proceeding because it
10 declines to exercise its jurisdiction pursuant to subsection (a), it shall
11 assess against the party seeking to invoke its jurisdiction necessary
12 and reasonable expenses including costs, communication expenses,
13 attorney's fees, investigative fees, expenses for witnesses, travel
14 expenses, and child care during the course of the proceedings, unless
15 the party from whom fees are sought establishes that the assessment
16 would be clearly inappropriate. The court may not assess fees, costs,
17 or expenses against this Territory unless authorized by law other
18 than this Act.

19 **SECTION 209. INFORMATION TO BE SUBMITTED TO COURT.**

20 (a) Subject to any existing law of this territory providing for the
21 confidentiality of procedures, addresses, and other identifying
22 information, in a child-custody proceeding, each party, in its first
23 pleading or in an attached affidavit, shall give information, if

1 reasonably ascertainable, under oath as to the child's present address
2 or whereabouts, the places where the child has lived during the last
3 five years, and the names and present addresses of the persons with
4 whom the child has lived during that period. The pleading or
5 affidavit must state whether the party:

6 (1) has participated, as a party or witness or in any other
7 capacity, in any other proceeding concerning the custody of or
8 visitation with the child and, if so, identify the court, the case
9 number, and the date of the child-custody determination, if any;

10 (2) knows of any proceeding that could affect the current
11 proceeding, including proceedings for enforcement and
12 proceedings relating to domestic violence, protective orders,
13 termination of parental rights, and adoptions and, if so, identify
14 the court, the case number, and the nature of the proceeding;
15 and

16 (3) knows the names and addresses of any person not a party to
17 the proceeding who has physical custody of the child or claims
18 rights of legal custody or physical custody of, or visitation with,
19 the child and, if so, the names and addresses of those persons.

20 (b) If the information required by subsection (a) is not furnished, the
21 court, upon motion of a party or its own motion, may stay the
22 proceeding until the information is furnished.

1 (c) If the declaration as to any of the items described in subsection
2 (a)(1) through (3) is in the affirmative, the declarant shall give
3 additional information under oath as required by the court. The court
4 may examine the parties under oath as to details of the information
5 furnished and other matters pertinent to the court's jurisdiction and
6 the disposition of the case.

7 (d) Each party has a continuing duty to inform the court of any
8 proceeding in this or any other State that could affect the current
9 proceeding.

10 (e) If a party alleges in an affidavit or a pleading under oath that the
11 health, safety, or liberty of a party or child would be jeopardized by
12 disclosure of identifying information, the information must be sealed
13 and may not be disclosed to the other party or the public unless the
14 court orders the disclosure to be made after a hearing in which the
15 court takes into consideration the health, safety, or liberty of the party
16 or child and determines that the disclosure is in the interest of justice.]

17 **SECTION 210. APPEARANCE OF PARTIES AND CHILD.** (a) In a
18 child-custody proceeding in this Territory, the court may order a
19 party to the proceeding who is in this Territory to appear before the
20 court in person with or without the child. The court may order any
21 person who is in this Territory and who has physical custody or
22 control of the child to appear in person with the child.

1 (b) If a party to a child-custody proceeding whose presence is desired
2 by the court is outside this Territory, the court may order that a
3 notice given pursuant to Section 108 include a statement directing the
4 party to appear in person with or without the child and informing the
5 party that failure to appear may result in a decision adverse to the
6 party.

7 (c) The court may enter any orders necessary to ensure the safety of
8 the child and of any person ordered to appear under this section.

9 (d) If a party to a child-custody proceeding who is outside this
10 Territory is directed to appear under subsection (b) or desires to
11 appear personally before the court with or without the child, the
12 court may require another party to pay reasonable and necessary
13 travel and other expenses of the party so appearing and of the child.

14 ARTICLE 3

15 ENFORCEMENT

16 SECTION 301. DEFINITIONS. In this Article:

17 (1) "Petitioner" means a person who seeks enforcement of an order
18 for return of a child under the Hague Convention on the Civil
19 Aspects of International Child Abduction or enforcement of a child-
20 custody determination.

21 (2) "Respondent" means a person against whom a proceeding has
22 been commenced for enforcement of an order for return of a child

1 under the Hague Convention on the Civil Aspects of International
2 Child Abduction or enforcement of a child-custody determination.

3 **SECTION 302. ENFORCEMENT UNDER HAGUE CONVENTION.**

4 Under this Article the Superior Court of Guam may enforce an order
5 for the return of the child made under the Hague Convention on the
6 Civil Aspects of International Child Abduction as if it were a child-
7 custody determination.

8 **SECTION 303. DUTY TO ENFORCE.** (a) The Superior Court of
9 Guam shall recognize and enforce a child-custody determination of a
10 court of another State if the latter court exercised jurisdiction in
11 substantial conformity with this Act or the determination was made
12 under factual circumstances meeting the jurisdictional standards of
13 this Act and the determination has not been modified in accordance
14 with this Act.

15 (b) The Superior Court of Guam may utilize any remedy available
16 under other law of this Territory to enforce a child-custody
17 determination made by a court of another State. The remedies
18 provided in this Article are cumulative and do not affect the
19 availability of other remedies to enforce a child-custody
20 determination.

21 **SECTION 304. TEMPORARY VISITATION.** (a) A court of this
22 Territory which does not have jurisdiction to modify a child-custody
23 determination, may issue a temporary order enforcing:

1 (1) a visitation schedule made by a court of another State; or

2 (2) the visitation provisions of a child-custody determination of
3 another State that does not provide for a specific visitation
4 schedule.

5 (b) If a court of this Territory makes an order under subsection (a)(2),
6 it shall specify in the order a period that it considers adequate to
7 allow the petitioner to obtain an order from a court having
8 jurisdiction under the criteria specified in Article 2. The order
9 remains in effect until an order is obtained from the other court or the
10 period expires.

11 **SECTION 305. REGISTRATION OF CHILD-CUSTODY**
12 **DETERMINATION.** (a) A child-custody determination issued by a
13 court of another State may be registered in this Territory, with or
14 without a simultaneous request for enforcement, by sending to the
15 Superior Court of Guam:

16 (1) a letter or other document requesting registration;

17 (2) two copies, including one certified copy, of the
18 determination sought to be registered, and a statement under
19 penalty of perjury that to the best of the knowledge and belief
20 of the person seeking registration the order has not been
21 modified; and

1 (3) except as otherwise provided in Section 209, the name and
2 address of the person seeking registration and any parent or
3 person acting as a parent who has been awarded custody or
4 visitation in the child-custody determination sought to be
5 registered.

6 (b) On receipt of the documents required by subsection (a), the
7 registering court shall:

8 (1) cause the determination to be filed as a foreign judgment,
9 together with one copy of any accompanying documents and
10 information, regardless of their form; and

11 (2) serve notice upon the persons named pursuant to subsection
12 (a)(3) and provide them with an opportunity to contest the
13 registration in accordance with this section.

14 (c) The notice required by subsection (b)(2) must state that:

15 (1) a registered determination is enforceable as of the date of
16 the registration in the same manner as a determination issued
17 by the Superior Court of Guam;

18 (2) a hearing to contest the validity of the registered
19 determination must be requested within 20 days after service of
20 notice; and

1 (3) failure to contest the registration will result in confirmation
2 of the child-custody determination and preclude further contest
3 of that determination with respect to any matter that could
4 have been asserted.

5 (d) A person seeking to contest the validity of a registered order must
6 request a hearing within 20 days after service of the notice. At that
7 hearing, the court shall confirm the registered order unless the
8 person contesting registration establishes that:

9 (1) the issuing court did not have jurisdiction under Article 2;

10 (2) the child-custody determination sought to be registered has
11 been vacated, stayed, or modified by a court having jurisdiction
12 to do so under Article 2; or

13 (3) the person contesting registration was entitled to notice, but
14 notice was not given in accordance with the standards of
15 Section 108, in the proceedings before the court that issued the
16 order for which registration is sought.

17 (e) If a timely request for a hearing to contest the validity of the
18 registration is not made, the registration is confirmed as a matter of
19 law and the person requesting registration and all persons served
20 must be notified of the confirmation.

21 (f) Confirmation of a registered order, whether by operation of law or
22 after notice and hearing, precludes further contest of the order with

1 respect to any matter that could have been asserted at the time of
2 registration.

3 **SECTION 306. ENFORCEMENT OF REGISTERED**
4 **DETERMINATION.** (a) The Superior Court of Guam may grant any
5 relief normally available under the law of this Territory to enforce a
6 registered child-custody determination made by a court of another
7 State.

8 (b) The Superior Court of Guam shall recognize and enforce, but may
9 not modify, except in accordance with Article 2, a registered child-
10 custody determination of a court of another State.

11 **SECTION 307. SIMULTANEOUS PROCEEDINGS.** If a proceeding
12 for enforcement under this Article is commenced in the Superior
13 Court of Guam and the court determines that a proceeding to modify
14 the determination is pending in a court of another State having
15 jurisdiction to modify the determination under Article 2, the
16 enforcing court shall immediately communicate with the modifying
17 court. The proceeding for enforcement continues unless the enforcing
18 court, after consultation with the modifying court, stays or dismisses
19 the proceeding.

20 **SECTION 308. EXPEDITED ENFORCEMENT OF CHILD-**
21 **CUSTODY DETERMINATION.** (a) A petition under this Article
22 must be verified. Certified copies of all orders sought to be enforced
23 and of any order confirming registration must be attached to the

1 petition. A copy of a certified copy of an order may be attached
2 instead of the original.

3 (b) A petition for enforcement of a child-custody determination must
4 state:

5 (1) whether the court that issued the determination identified
6 the jurisdictional basis it relied upon in exercising jurisdiction
7 and, if so, what the basis was;

8 (2) whether the determination for which enforcement is sought
9 has been vacated, stayed, or modified by a court whose
10 decision must be enforced under this Act and, if so, identify the
11 court, the case number, and the nature of the proceeding;

12 (3) whether any proceeding has been commenced that could
13 affect the current proceeding, including proceedings relating to
14 domestic violence, protective orders, termination of parental
15 rights, and adoptions and, if so, identify the court, the case
16 number, and the nature of the proceeding;

17 (4) the present physical address of the child and the respondent,
18 if known;

19 (5) whether relief in addition to the immediate physical custody
20 of the child and attorney's fees is sought, including a request for
21 assistance from law enforcement officials and, if so, the relief
22 sought; and

1 (6) if the child-custody determination has been registered and
2 confirmed under Section 305, the date and place of registration.

3 (c) Upon the filing of a petition, the court shall issue an order
4 directing the respondent to appear in person with or without the
5 child at a hearing and may enter any order necessary to ensure the
6 safety of the parties and the child. The hearing must be held on the
7 next judicial day after service of the order unless that date is
8 impossible. In that event, the court shall hold the hearing on the first
9 judicial day possible. The court may extend the date of hearing at the
10 request of the petitioner.

11 (d) An order issued under subsection (c) must state the time and
12 place of the hearing and advise the respondent that at the hearing the
13 court will order that the petitioner may take immediate physical
14 custody of the child and the payment of fees, costs, and expenses
15 under Section 312, and may schedule a hearing to determine whether
16 further relief is appropriate, unless the respondent appears and
17 establishes that:

18 (1) the child-custody determination has not been registered and
19 confirmed under Section 305 and that:

20 (A) the issuing court did not have jurisdiction under
21 Article 2;

1 (B) the child-custody determination for which
2 enforcement is sought has been vacated, stayed, or
3 modified by a court having jurisdiction to do so under
4 Article 2;

5 (C) the respondent was entitled to notice, but notice was
6 not given in accordance with the standards of Section 108,
7 in the proceedings before the court that issued the order
8 for which enforcement is sought; or

9 (2) the child-custody determination for which
10 enforcement is sought was registered and confirmed under
11 Section 304, but has been vacated, stayed, or modified by a
12 court of a State having jurisdiction to do so under Article 2.

13 **SECTION 309. SERVICE OF PETITION AND ORDER.** Except as
14 otherwise provided in Section 311, the petition and order must be
15 served, by any method authorized by the laws of this territory, upon
16 respondent and any person who has physical custody of the child.

17 **SECTION 310. HEARING AND ORDER.** (a) Unless the court issues
18 a temporary emergency order pursuant to Section 204, upon a
19 finding that a petitioner is entitled to immediate physical custody of
20 the child, the court shall order that the petitioner may take immediate
21 physical custody of the child unless the respondent establishes that:

1 (1) the child-custody determination has not been registered and
2 confirmed under Section 305 and that:

3 (A) the issuing court did not have jurisdiction under
4 Article 2;

5 (B) the child-custody determination for which
6 enforcement is sought has been vacated, stayed, or
7 modified by a court of a State having jurisdiction to do so
8 under Article 2; or

9 (C) the respondent was entitled to notice, but notice was
10 not given in accordance with the standards of Section 108,
11 in the proceedings before the court that issued the order
12 for which enforcement is sought; or

13 (2) the child-custody determination for which enforcement is
14 sought was registered and confirmed under Section 305 but has
15 been vacated, stayed, or modified by a court of a State having
16 jurisdiction to do so under Article 2.

17 (b) The court shall award the fees, costs, and expenses authorized
18 under Section 312 and may grant additional relief, including a
19 request for the assistance of law enforcement officials, and set a
20 further hearing to determine whether additional relief is appropriate.

1 (c) If a party called to testify refuses to answer on the ground that the
2 testimony may be self-incriminating, the court may draw an adverse
3 inference from the refusal.

4 (d) A privilege against disclosure of communications between
5 spouses and a defense of immunity based on the relationship of
6 husband and wife or parent and child may not be invoked in a
7 proceeding under this Article.

8 **SECTION 311. WARRANT TO TAKE PHYSICAL CUSTODY OF**
9 **CHILD.** (a) Upon the filing of a petition seeking enforcement of a
10 child-custody determination, the petitioner may file a verified
11 application for the issuance of a warrant to take physical custody of
12 the child if the child is immediately likely to suffer serious physical
13 harm or be removed from this Territory.

14 (b) If the court, upon the testimony of the petitioner or other witness,
15 finds that the child is imminently likely to suffer serious physical
16 harm or be removed from this Territory, it may issue a warrant to
17 take physical custody of the child. The petition must be heard on the
18 next judicial day after the warrant is executed unless that date is
19 impossible. In that event, the court shall hold the hearing on the first
20 judicial day possible. The application for the warrant must include
21 the statements required by Section 308(b).

22 (c) A warrant to take physical custody of a child must:

1 (1) recite the facts upon which a conclusion of imminent serious
2 physical harm or removal from the jurisdiction is based;

3 (2) direct law enforcement officers to take physical custody of
4 the child immediately; and

5 (3) provide for the placement of the child pending final relief.

6 (d) The respondent must be served with the petition, warrant, and
7 order immediately after the child is taken into physical custody.

8 (e) A warrant to take physical custody of a child is enforceable
9 throughout this Territory. If the court finds on the basis of the
10 testimony of the petitioner or other witness that a less intrusive
11 remedy is not effective, it may authorize law enforcement officers to
12 enter private property to take physical custody of the child. If
13 required by exigent circumstances of the case, the court may
14 authorize law enforcement officers to make a forcible entry at any
15 hour.

16 (f) The court may impose conditions upon placement of a child to
17 ensure the appearance of the child and the child's custodian.

18 **SECTION 312. COSTS, FEES, AND EXPENSES.** (a) The court shall
19 award the prevailing party, including a State, necessary and
20 reasonable expenses incurred by or on behalf of the party, including
21 costs, communication expenses, attorney's fees, investigative fees,
22 expenses for witnesses, travel expenses, and child care during the

1 course of the proceedings, unless the party from whom fees or
2 expenses are sought establishes that the award would be clearly
3 inappropriate.

4 (b) The court may not assess fees, costs, or expenses against a State
5 unless authorized by law other than this Act.

6 **SECTION 313. RECOGNITION AND ENFORCEMENT.** The
7 Superior Court of Guam shall accord full faith and credit to an order
8 issued by another State and consistent with this Act which enforces a
9 child-custody determination by a court of another State unless the
10 order has been vacated, stayed, or modified by a court having
11 jurisdiction to do so under Article 2.

12 **SECTION 314. APPEALS.** An appeal may be taken from a final order
13 in a proceeding under this Article in accordance with expedited
14 appellate procedures in other civil cases. Unless the court enters a
15 temporary emergency order under Section 204, the enforcing court
16 may not stay an order enforcing a child-custody determination
17 pending appeal.

18 **SECTION 315. ROLE OF PROSECUTOR OR ATTORNEY**
19 **GENERAL.** (a) In a case arising under this Act or involving the
20 Hague Convention on the Civil Aspects of International Child
21 Abduction, the prosecutor or other appropriate public official may
22 take any lawful action, including resort to a proceeding under this
23 Article or any other available civil proceeding to locate a child, obtain

1 the return of a child, or enforce a child-custody determination if there
2 is:

3 (1) an existing child-custody determination;

4 (2) a request to do so from a court in a pending child-custody
5 proceeding;

6 (3) a reasonable belief that a criminal statute has been violated;
7 or

8 (4) a reasonable belief that the child has been wrongfully
9 removed or retained in violation of the Hague Convention on
10 the Civil Aspects of International Child Abduction.

11 (b) A prosecutor or appropriate public official acting under this
12 section acts on behalf of the court and may not represent any party.

13 **SECTION 316. ROLE OF LAW ENFORCEMENT.** At the request of a
14 prosecutor or other appropriate public official acting under Section
15 315, a law enforcement officer] may take any lawful action
16 reasonably necessary to locate a child or a party and assist a
17 prosecutor or appropriate public official with responsibilities under
18 Section 315.

19 **SECTION 317. COSTS AND EXPENSES.** If the respondent is not the
20 prevailing party, the court may assess against the respondent all
21 direct expenses and costs incurred by the prosecutor or other

1 appropriate public official and law enforcement officers under
2 Section 315 or 316.

3 **ARTICLE 4**

4 **MISCELLANEOUS PROVISIONS**

5 **SECTION 401. APPLICATION AND CONSTRUCTION.** In
6 applying and construing this Uniform Act, consideration must be
7 given to the need to promote uniformity of the law with respect to its
8 subject matter among States that enact it.

9 **SECTION 402. SEVERABILITY CLAUSE.** If any provision of this
10 Act or its application to any person or circumstance is held invalid,
11 the invalidity does not affect other provisions or applications of this
12 Act which can be given effect without the invalid provision or
13 application, and to this end the provisions of this Act are severable.

14 **SECTION 403. TRANSITIONAL PROVISION.** A motion or other
15 request for relief made in a child-custody proceeding or to enforce a
16 child-custody determination which was commenced before the
17 effective date of this Act is governed by the law in effect at the time
18 the motion or other request was made.

OVERVIEW OF PUBLIC HEARING

Bill No. 83 (EC) – RELATIVE TO ADOPTING THE FEDERAL UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT FOR LOCAL APPLICATION AND ENFORCEMENT

TIME: 1:30pm

DATE: March 18, 2005

PLACE: Guam Legislature Public Hearing Room
155 Hesler Street, Hagatna, Guam

SENATORS PRESENT:

Chairman Robert Klitzkie
Senator Benjamin J.F. Cruz, Member & Sponsor
Senator Larry Kasperbauer, Member
Senator Adolpho B. Palacios, Member
Senator Ray Tenorio, Member
Senator Judith T. Won Pat

SUMMARY OF TESTIMONIES

The following individuals presented oral testimony in support of Bill No. 83(EC). They are as follows:

Attorney Carol Ann Butler, in private practice
Attorney Ron Moroni, in private practice
Attorney Daniel Somerfleck, Director of Guam Legal Services Corporation
Attorney Kathy Maher, Director of Public Defender Service Corporation

The hearing on Bill 83 was reconvened at 1:30 PM.

Attorney Carol Ann Butler presented oral testimony in favor of the bill. Attorney Butler pointed to the fact that the UCCJEA has been enacted in slightly different forms throughout the fifty states. It gives Judges guidelines and standards for custody cases and will cause consistent child custody orders.

According to Attorney Butler, other jurisdictions would consider Guam law applicable in child custody cases with the adoption of the bill. She referenced the “6 month rule” currently in Guam Law – which dictates that Guam Courts can assert jurisdiction on child custody matters when a parent and child live on Guam for at least 6 months. She pointed out that local judges are already referencing the UCCJEA language and law for adjudication of custody cases. However, the Judges need to have the statutes in place to

give consistent custody orders. With the new case rotation rule now being implemented within the Courts, more Judges are handling child custody cases than before – some of which are not as familiar with others. She pushed for the legislation to be passed as soon as possible and noted that a provision (Section 208 (c)) would establish authorization for the assessment of legal fees against individuals attempting to take unfair advantage of custody proceedings by filing inappropriate cases.

Attorney Ron Moroni presented oral testimony in favor of the bill. According to Moroni, this past year he has personally handled 5 cases that involved interstate child custody disputes and 3 of them had to do with parental kidnapping. He stated that the adoption of the uniform law is good because it has been tested already.

Attorney Daniel Somerfleck, Director of Guam Legal Services also testified in support of the bill. He stated that the bill will affect many of his clients and the client base of Guam Legal Services. Attorney Somerfleck stated that passage of the bill will bring Guam in line with all other jurisdictions in the United States. He stated that the bill would put Guam on par with all other jurisdictions. He cited numerous examples of domestic situations involving parental kidnapping. Under the Child Kidnapping Act, Guam is required to expend large amounts of resources on this issue. He stated that Guam not being a signatory of the uniform act causes other jurisdictions to re-litigate cases. The current law exposes parents to incredible expense when one party leaves the island. Attorney Somerfleck stated that parental kidnapping is normally a problem affecting the military population but is now a problem with the local population as a result of the large number of locals migrating to the United States. He stated that the bill will have a long lasting impact for the island and that many of the current cases are 10 – 12 years old. He hopes there will be strong support from the legislature.

PANEL QUESTIONS:

Senator BJ CRUZ – thanked the Chairman for his expeditious action in hearing. As a Family Court Judge, Senator Cruz stated that he suffered through 10 years of custody cases that couldn't be addressed because of the non-applicability of the UCCJEA. He stated his desire for the bill to move through the legislative process expeditiously so that Courts of Guam make a determination on the custody of a child – it is not challenged by another jurisdiction.

Senator Cruz also cited examples of people returning from the states and ask the local courts not to recognize the custody decree from their originating state hoping that the dispute would be resolved in Guam and re-litigated to absolve themselves of parental kidnapping. He stated that it is not a proper function of the court to be part of the conspiracy to ignore the decrees and decisions made in another state. Information gathering on such cases are and is a disservice to the children when full custody proceedings are not possible in helping the court to make the proper decisions on custody issues.

Senator Adolfo B. PALACIOS cited an example of a custody dispute he is personally knowledgeable of and asked how the bill would address custody situations in which one of the parents remained a Guam resident while the other parent and the children relocated to the states. The custody order was subsequently modified in the states.

Attorney Butler responded by citing the “6 month rule” and Section 201 of the legislation, which states that so long as one parent continues to live in Guam – there will be continuing and existing jurisdiction.

Senator Ray TENORIO had no questions.

Senator Larry KASPERAUER had no questions.

Senator Judith T. WONPAT asked how the bill would address a situation in which one parent is living in a foreign jurisdiction.

Attorney Somerfleck responded that the jurisdiction of the Guam court has to be established and referenced Section 105 of the bill.

Senator Cruz also responded and cited the “6 – Month Rule” – if one parent is here with a child and exceeds 6 months – then Guam asserts jurisdiction.

Attorney Somerfleck further stated that the Guam Court has to establish jurisdiction of the foreign citizen and that the Guam Court must still serve notice to the other parent. Adoption of the bill would provide guidance to this matter.

Attorney Moroni stated that the bill would create a vacuum jurisdiction -- which the Guam Court can assert if there is no other court for jurisdiction (especially in the case of military and their dependents living abroad).

Attorney Somerfleck responded saying that the key is where the child is physically located.

Senator Cruz stated that the Courts shouldn't claim jurisdiction if a child has never been in the jurisdiction because of the lack of information required to make a proper determination in custody matters.

Attorney Kathy Maher provided testimony later in the day at approximately 2:40pm and was not present for the preceding questions. Attorney Maher presented oral testimony in favor of the legislation and said that the bill will be good for parents and children, many of whom cannot afford to attend proceedings in the United States. Attorney Maher said that passage of the legislation would make the Court System work better. Courts would share information and determine where the best place is for the child. She said that the requirements for depositions are good as is the mandate for Judges to work together. Attorney Maher also cited her support for Section 208(c) which would protect the custody cases from inappropriate challenges. She stated that the bill provides

all the necessary communications tools between jurisdictions to properly adjudicate custody cases.

FINDINGS AND RECOMMENDATIONS

If passed into law, Bill 83(EC) would adopt the Uniform Child Custody Jurisdiction and Enforcement Act which would accomplish 4 main goals as follows:

- (1) Clearer standards in the exercise of asserting original jurisdiction over child custody determination.
- (2) Enunciates a standard of continuing jurisdiction and clarifies multiple or concurrent jurisdiction.
- (3) Harmonizes the laws on simultaneous proceedings.
- (4) Establishes a remedial process to enforce interstate child custody and visitation determinations.

The Committee on Judiciary finds that passage of Bill 83(EC) in its current form is in the best interest of the people of Guam and does hereby recommend its passage by *I Liheslaturan Guahan*.



I Mina' Bente Ocho Na Liheslaturan Guahan
Committee on Judiciary, Governmental Operations, & Reorganization

MINUTES

Date: March 18, 2005

Location: Guam Legislature – Public Hearing Room
155 Hesler Street Hagatna, Guam

Called to order by Senator Robert Klitzkie, Chairman at 9:00am

Senators present:

Senator Robert Klitzkie, Chairman
Senator Ray Tenorio, Member
Senator Adolpho Palacios, Member
Senator B.J. Cruz, Member
Senator Larry Kasperbauer, Member
Senator Joanne Brown
Senator Lou Leon Guerrero
Senator Judi Won Pat
Senator Eddie Calvo

Bills on agenda: Bill 5 (LS); Bill 39 (EC); Bill 42 (EC); Bill 43 (EC); Bill 53 (EC); Bill 62 (EC); Bill 72 (EC); Bill 78 (EC); Bill 83 (EC); Bill 84 (EC)

Bill 5 (LS) heard at 9:01am

Description: AN ACT TO ADD A NEW §§4203.3 TO TITLE 4 AND §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR FOR GOVERNMENT CONTRACTORS IN AREAS FREQUENTED BY CHILDREN.

Testimony:

- No individuals signed-in to present oral testimony.
- **Dr. Jose Cruz**, Chairman of the Guam Education Policy Board, presented written testimony in support of Bill 5.

Bill 39 (EC) heard at 9:02am

Description: AN ACT TO ADD A NEW SECTION 63103.1 TO ARTICLE 1, CHAPTER 63, DIVISION 6 OF TITLE 5 OF THE GUAM CODE ANNOTATED TO ENHANCE ENFORCEMENT OF NATURAL RESOURCES LAWS THROUGH THE CREATION OF A VOLUNTEER CONSERVATION OFFICER RESERVE.

Testimony:

- **Mr. Joseph Torres**, Acting Director of the Department of Agriculture, testified in support of Bill 39 at 9:03am.*

*Mr. Torres was accompanied by the following individuals for the purpose of providing technical support during questioning by Senators:

Celestino Aguon, Acting Chief of the Department of Aquatics and Wild Life
Trina Leberer, former employee and Supervisor of Aquatics

Michael Reyes, Acting Chief for the Conservation Office

- Comments and questions presented to the panel by Senator Brown, Senator Palacios, Senator Tenorio, Senator Leon Guerrero, Senator Kasperbauer, and Senator Klitzkie.

Bill 42 (EC) heard at 9:38am

Description: AN ACT TO AMEND THE COMPOSITION, RESPONSIBILITIES AND DUTIES OF THE ACCREDITATION BOARD IN THE REVIEW AND CERTIFICATION OF PRIVATE POST SECONDARY INSTITUTIONS BY REPEALING AND REENACTING §44104 OF CHAPTER 44 OF TITLE 17 OF THE GUAM CODE ANNOTATED AND TO APPEND §44105, §44106 AND §44107 TO CHAPTER 44 OF TITLE 17 OF THE GUAM CODE ANNOTATED.

Testimony:

- **Dr. Jose Nededog**, private citizen and long-time educator, testified in support of Bill 42 at 9:39am.
- **Mr. Mark Zhao**, Businessman and Representative of NAZPAC College, testified in support of Bill 42 at 9:49am.
- **Mr. Ron Moroni**, Attorney representing NAZPAC with respect to litigation issues, testified in support of Bill 42 at 9:52am.
- **Dr. Jose Cruz**, Chairman of the Guam Education Policy Board, testified in opposition of Bill 42 at 9:59am.
- **Mr. Larry Ramirez**, private citizen, testified in support of Bill 42 @ 10:46am
- Comments and questions presented to the panel by Senator Klitzkie, Senator Brown, Senator Palacios, Senator Kasperbauer, Senator Won Pat, and Senator Eddie Calvo.

Bill 43 (EC) heard at 10:54am

Description: AN TO REPEAL AND RE-ENACT ITEM (o) OF §3103 OF CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED RELATIVE TO THE PERSONNEL TRANSFER AUTHORITY OF THE SUPERINTENDENT OF EDUCATION.

Testimony:

- **Mr. Louis Reyes**, Administrator of Personnel Services Division of the Department of Education, testified on behalf of the Chairman of the Guam Education Policy Board (unable to attend) and the Superintendent of Education in support of Bill 43 at 10:55am.
- **Mr. Robert Koss**, Director of Field Services for Guam Federation of Teachers, testified on behalf of the membership of the association and the president of the GFT (unable to attend) in support of Bill 43 at 10:55am.
- Comments and questions presented to the panel by Senator Klitzkie, Senator Palacios, Senator Leon Guerrero, Senator Kasperbauer, and Senator Won Pat.

Bill 62 (EC) heard at 11:21am

Description: AN ACT TO RECRUIT AND RETAIN PHARMACISTS IN THE GUAM MEMORIAL HOSPITAL, THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES, AND THE DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE, BY ADDING A NEW SECTION 6230 TO ARTICLE 2 OF CHAPTER 6 OF TITLE 4, GUAM CODE ANNOTATED.

Testimony:

- No individuals signed-in to present oral and/or written testimony

Bill 53 (EC) heard at 11:22am

Description: AN ACT TO AMEND SECTION 12 OF CHAPTER VI OF PUBLIC LAW 27-106 RELATIVE TO PERSONAL SERVICES CONTRACTS.

Testimony:

- **Mr. Joe Guthrie**, Deputy Attorney General, stated he was in support of Bill 53 at 11:23am. No testimony given—yielded to Attorney General.
- **Mr. Doug Moylan**, Attorney General, testified in opposition of Bill 53 in its current form at 11:23am.
- **Mr. Bill Bishoff**, limited-term employee at AG's office, testified in support of Bill 53 at 11:42am.
- **Mr. Mark "Paps" Martinez**, private citizen, presented oral and written testimony in support of Bill 53 at 11:44am.
- Comments and question presented to the panel by Senator Klitzkie, Senator Palacios, Senator Tenorio, and Senator Won Pat.

***An adjourned hearing was called by the Chairman at 12:00pm to reconvene at 1:30pm**

Bill 83 (EC) heard at 1:30pm

Description:

Description: RELATIVE TO ADOPTING THE FEDERAL UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT FOR LOCAL APPLICATION AND ENFORCEMENT.

Testimony:

- **Ms. Carol Ann Butler**, Private Attorney, testified in support of Bill 72 at 1:31pm.
- **Ron Moroni**, Private Attorney, testified in support of Bill 72 at 1:33pm.
- **Mr. Daniel Somerfleck**, Director of Guam Legal Services, testified in support of Bill 72 at 1:36pm.
- Comments and questions were presented to the panel by Senator Klitzkie, Senator BJ Cruz, Senator Palacios, and Senator Won Pat.

Bill 84 (EC) heard at 2:03pm

Description: AN ACT TO AMEND SECTION 10 OF CHAPTER VI OF PUBLIC LAW 27-106 RELATIVE TO ALLOWING THE DEPARTMENT OF EDUCATION TO UTILIZE LIMITED-TERM EMPLOYEES UNTIL THE END OF THE 2004-2005 SCHOOL YEAR.

Testimony:

- **Mr. Luis Reyes**, Administrator of Personnel Services Division of the Department of Education, testified on behalf of the Superintendent in support of Bill 72 at 2:06pm.
- **Mr. Matt Rector**, President of the Guam Federation of Teachers, testified in support of Bill 84 at 2:08pm.
- **Mr. Ron Benoit**, Member of the Guam Education Policy Board, Guam Chamber of Commerce, and Businessman, testified in opposition of Bill 84 at 2:26pm.
- **Ms. Kathy Maher**, PSC, testified in support of Bill 84 at 2:46pm
- Comments and questions presented to the panel by Senator Klitzkie, Senator Tenorio, Senator Kasperbauer, Senator BJ Cruz, Senator Won Pat, and Senator Palacios.

Bill 78 (LS) heard at 2:30pm

Description: AN ACT TO ESTABLISH A COMPENSATION PLAN REVIEW FOR CERTIFICATED PERSONNEL AND HEALTH CARE PROFESSIONALS OF THE DEPARTMENT OF EDUCATION.

Testimony:

- **Mr. Luis Reyes**, Administrator of Personnel Services Division of the Department of Education, testified on behalf of the Superintendent of Education, in support of Bill 78 at 2:30pm.
- **Mr. Matt Rector**, President of the Guam Federation of Teachers, testified in support of Bill 78 at 2:34pm.
- **Mr. Robert Koss**,
- Comments and questions presented to the panel by Senator Klitzkie, Senator Palacios, Senator Tenorio, Senator Kasperbauer, Senator Cruz, and Senator Won Pat.

Bill 72 (EC) heard at 2:50pm

Description: AN ACT TO AMEND §10 OF CHAPTER VI OF PUBLIC LAW 27-106 FOR THE PURPOSE OF ALLOWING LIMITED TERM APPOINTMENTS TO CERTAIN POSITIONS WITHIN THE GUAM POLICE DEPARTMENT, THE GUAM FIRE DEPARTMENT, THE CUSTOMS AND QUARANTINE AGENCY, AND THE DEPARTMENT OF CORRECTIONS.

Testimony:

- **Mr. Fred Bordallo, Jr.**, Police Lieutenant at Guam Police Department, assigned to the Training and Staff Development Section, testified in opposition of Bill 72 at 2:50pm.
- **Mr. Frank Ishizaki**, Chief of Police, testified in support of Bill 72 at 15:03pm.
- Comments and questions presented to the panel by Senator Palacios, Senator Tenorio, Senator Won Pat, and Senator Klitzkie.

Public hearing adjourned at 3:30pm.

Declaration Under Penalty of Perjury of Audreya Punzalan


- 1.) I am employed as a Legislative Aide at the Office of Senator Robert Klitzkie.
- 2.) I was assigned the duty of disseminating a "Public Hearing Notice" (Appendix A) to each newspaper of general circulation and all broadcasting stations which air a regular local news program within Guam.
- 3.) In such notice I included all information (Appendix A) required by the Open Government Law, Title 5 GCA Sections 8101 thru 8116.
- 4.) I e-mailed notice to all local media (Appendix B: Media E-mail Listing) on March 10, 2005 (5 working days prior to hearing) in accordance with 5 GCA § 8108.
- 5.) I e-mailed notice to all local media (Appendix B: Media E-mail Listing) on March 16, 2005 (48 hours prior to hearing) in accordance with 5 GCA § 8108.
- 6.) I e-mailed notice to members of the Committee on Judiciary, *etc.* (Appendix C: Committee Member E-mails) on February 28, 2005 and March 09, 2005.
- 7.) I e-mailed notice to Speaker Mark Forbes (speakerforbes@yahoo.com) on March 11, 2005 (5 working days prior to hearing) for posting on www.guamlegislature.com, the official website of the Guam Legislature, in accordance with 5 GCA § 10306.
- 10.) I e-mailed a "Revised Public Hearing Notice" on March 14, 2005 to all senators, the Clerk of the Legislature, the Legislative Counsel, each newspaper of general circulation, and all broadcasting stations which air a regular news program within Guam. The revised notice indicated that Bill 14 was removed from the March 18th public hearing agenda.
- 8.) On March 11, 16, and 17, I confirmed which e-mails had been successfully delivered to recipients and those that were unsuccessful. I contacted the proper establishments to retrieve current updated e-mail addresses for those e-mails which indicated a bounce back of the "Notice of Public Hearing." I re-sent the "Notice of Public Hearing" to the corrected e-mail addresses. Bounce backs e-mail addresses of Sorenson Pacific Broadcasting that could not be corrected due to problems with email servers were as follows: Ray Gibson (rgibson@k57.com), Patty Arroyo (parroyo@k57.com), and ajuan@105therock.com. A fax was sent in place to these individuals at 477-3982.
- 9.) I caused notice on www.bobsoffice.org, website for the Committee on Judiciary, *etc.*, on March 09, 2005 (5 working days prior to hearing) in accordance with 5 GCA § 10306.

Declaration Under Penalty of Perjury

6 GCA Section 306

I declare under penalty of perjury that the foregoing is true and correct,

Executed on March 24, 2005 on Guam by

 (signature)

Audreya J. Punzalan

Bureau of Budget & Management Research
Fiscal Note of Bill No. 83(EC)

Bill Title (Preamble): An act relative to Adopting the federal Uniform Child Custody Jurisdiction and Enforcement Act for Local Application and Enforcement.

Department/Agency Appropriation Information	
Dept./Agency Affected: <u>Superior Court of Guam</u>	Dept./Agency Head: <u>Chief Justice</u>
Department's General Fund (GF) appropriation(s) to date:	\$18,101,242
Department's Other Fund (specify): _____ appropriation(s) to date:	\$0
Total Department/Agency Appropriation(s) to date:	\$18,101,242

Fund Source Information of Proposed Appropriation			
	General Fund:	Other (specify):	Total:
FY 2005 Adopted Revenues	\$447,441,000	\$100,502,170	\$547,943,170
FY Appro. to P.L. _____	(\$447,821,707)	(\$100,702,530)	(\$548,524,237)
Sub-total:	(\$380,707)	(\$200,360)	(\$581,067)
Less appropriation in Bill	\$0	\$0	\$0
Total:	(\$380,707)	(\$200,360)	(\$581,067)

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of Current FY (if applicable)	Second Year	Third Year	Fourth Year	Fifth Year
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Other Fund:	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? / / Yes /X/ No
 If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A / / Yes / / No
 If no, what is the additional amount required? \$ _____
- Does the Bill establish a new program/agency? / / Yes /X/ No
 If yes, will the program duplicate existing programs/agencies? /X/ N/A / / Yes / / No
 Is there a federal mandate to establish the program/agency? / / Yes /X/ No
- Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes /X/ No
 / / Requested agency comments not received by due date / / Other: _____

Analyst: <u>Dina P. Chock</u>	Date: <u>3/14/05</u>	Director: <u>Carlos P. Bordallo, Acting</u>	Date: <u>MAR 16 2005</u>
-------------------------------	----------------------	---	--------------------------

Footnotes: The Bill's intent is to adopt the "Uniform Child Custody Jurisdiction and Enforcement Act" for local application and enforcement. The Bill mentions that Guam is the only territory of the United States to not adopt the Act as a standard relative to interstate child custody and visitation. The Bill spells out the General Provisions, Jurisdiction and Enforcement definitions of the Act. As such, the fiscal impact would be from any costs associated with the implementation and enforcement of the Act. This cost impact is undetermined at this time.

APPENDIX A: NOTICE OF PUBLIC HEARING



I Mina' Bente Ocho Na Liheslaturan Guahan
**Committee on Judiciary, Governmental Operations,
& Reorganization**

www.bobsoffice.org/judiciary

PUBLIC HEARING NOTICE

A public hearing will be held on Friday, March 18, 2005 at 9:00am in the Guam Legislature's public hearing room located at 155 Hesler Place in Hagatna. The public is invited to present oral and/or written testimony. The following bills will be heard:

BILL 5 (LS) AN ACT TO ADD A NEW §§4203.3 TO TITLE 4 AND §5253 TO TITLE 5 OF THE GUAM CODE ANNOTATED RELATIVE TO PROHIBITING CONVICTED SEX OFFENDERS FROM BEING EMPLOYED IN THE GOVERNMENT OF GUAM OR FOR GOVERNMENT CONTRACTORS IN AREAS FREQUENTED BY CHILDREN.

BILL 14 (LS) AN ACT TO ADD A NEW CHAPTER 2A TO 5 GCA; TO REPEAL 1 GCA §1800, CHAPTER 11 OF 5 GCA; TO ESTABLISH EDUCATION, HEALTH AND PUBLIC SAFETY AS THE TOP PRIORITIES OF THE GOVERNMENT, TO RECOGNIZE THE GOVERNOR'S AUTHORITY TO REORGANIZE THE EXECUTIVE BRANCH OF THE GOVERNMENT, TO REMOVE IMPEDIMENTS TO REORGANIZATION, TO PROVIDE THE GOVERNOR THE TOOLS NECESSARY FOR SUCH REORGANIZATION AND PRIORITIZATION AND TO ENACT THE GOVERNMENT PRIORITIES ACT OF 2006. POSTPONED

BILL 39 (EC) AN ACT TO ADD A NEW SECTION 63103.1 TO ARTICLE 1, CHAPTER 63, DIVISION 6 OF TITLE 5 OF THE GUAM CODE ANNOTATED TO ENHANCE ENFORCEMENT OF NATURAL RESOURCES LAWS THROUGH THE CREATION OF A VOLUNTEER CONSERVATION OFFICER RESERVE.

BILL 42 (EC) AN ACT TO AMEND THE COMPOSITION, RESPONSIBILITIES AND DUTIES OF THE ACCREDITATION BOARD IN THE REVIEW AND CERTIFICATION OF PRIVATE POST SECONDARY INSTITUTIONS BY REPEALING AND REENACTING §44104 OF CHAPTER 44 OF TITLE 17 OF THE GUAM CODE ANNOTATED AND TO APPEND §44105, §44106 AND §44107 TO CHAPTER 44 OF TITLE 17 OF THE GUAM CODE ANNOTATED.

BILL 43 (EC) AN TO REPEAL AND RE-ENACT ITEM (o) OF §3103 OF CHAPTER 3 OF TITLE 17, GUAM CODE ANNOTATED RELATIVE TO THE PERSONNEL TRANSFER AUTHORITY OF THE SUPERINTENDENT OF EDUCATION.

BILL 53 (EC) AN ACT TO AMEND SECTION 12 OF CHAPTER VI OF PUBLIC LAW 27-106 RELATIVE TO PERSONAL SERVICES CONTRACTS.

BILL 62 (EC) AN ACT TO RECRUIT AND RETAIN PHARMACISTS IN THE GUAM MEMORIAL HOSPITAL, THE DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES, AND THE DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE, BY ADDING A NEW SECTION 6230 TO ARTICLE 2 OF CHAPTER 6 OF TITLE 4, GUAM CODE ANNOTATED.

BILL 72 (EC) AN ACT TO AMEND §10 OF CHAPTER VI OF PUBLIC LAW 27-106 FOR THE PURPOSE OF ALLOWING LIMITED TERM APPOINTMENTS TO CERTAIN POSITIONS WITHIN THE GUAM POLICE DEPARTMENT, THE GUAM FIRE DEPARTMENT, THE CUSTOMS AND QUARANTINE AGENCY, AND THE DEPARTMENT OF CORRECTIONS.

BILL 78 (LS) AN ACT TO ESTABLISH A COMPENSATION PLAN REVIEW FOR CERTIFICATED PERSONNEL AND HEALTH CARE PROFESSIONALS OF THE DEPARTMENT OF EDUCATION.

BILL 83 (EC) RELATIVE TO ADOPTING THE FEDERAL UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT FOR LOCAL APPLICATION AND ENFORCEMENT.

BILL 84 (EC) AN ACT TO AMEND SECTION 10 OF CHAPTER VI OF PUBLIC LAW 27-106 RELATIVE TO ALLOWING THE DEPARTMENT OF EDUCATION TO UTILIZE LIMITED-TERM EMPLOYEES UNTIL THE END OF THE 2004-2005 SCHOOL YEAR.

***Written testimony can be submitted via e-mail to judiciary@bobsoffice.org**

For ADA assistance, please contact the Office of Senator Robert Klitzkie at (671) 472-9355 ext. 3 or send request via email to judiciary@bobsoffice.org.

APPENDIX B: MEDIA E-MAIL LISTING

<p align="center">Notice to all media : Outlet Managers, Publishers, Producers</p>	<p align="center">Notice to all media : News Directors, Editors, Reporters</p>
<p><u>PRINT</u> Marianas Variety – Amier Younis, Ops Mgr, amier@mvguam.com Directions – Jerry Roberts, Publisher, jroberts@directionsguam.com Guam Business – Steve Nygard, Publisher, snygard@glimpses.guam.net Pacific Daily News – Government Meetings Section life@guampdn.com Marianas Business Journal – Steve Nygard, Publisher, snygard@glimpses.guam.net Guahan Magazine – Carlene Cooper-Nurse, Publisher, carlene@guahanmagazine.com Mabuhay News – Ritchie Lim, Publisher, paciwire@ite.net Mariana’s Variety – Ad Section , ads@mvguam.com</p> <p><u>TV</u> KUAM Ch. 8 – generalmanager@KUAM.com KUAM Ch. 11 – generalmanager@KUAM.com ABC 14 – David Larson, Gen Mgr, david@go14.tv KGTF – kgtf12@ite.net</p> <p><u>RADIO</u> K57 – Ray Gibson, General Mgr, rgibson@k57.com Power98 – Roque Aguon, General Mgr, raguon@power98.com 105 Rock – Albert Juan, General Mgr, ajuan@105therock.com I-94 FM – Fredalynn Mortera Hecita, fredalynn@kuam.com 610 AM – Ryan San Nicolas, ryan@kuam.com K-StereO – Ed Poppe, General Mgr, ksto@ite.net KISH (102.9 FM) – Ed Poppe, General Mgr, ksto@ite.net Hit Radio 100 – Vince Limuaco, Sales Mgr., marketing@hitradio100.com KPRG (89.3 FM) – General Manager, kprg@kprg.org Harvest Family Radio – khmg@harvestministries.net KTKB – ktkb@ktkb.com KOLG 90.0 FM – Contact, chuck@kolg.org KTWG 800 AM – Ops Mgr , Kleilani63@hotmail.com</p>	<p><u>PRINT</u> Pacific Daily News –Rindraty Limtiaco, Exec. Editor, rlimtiaco@guampdn.com Marianas Variety – Mar-Vic Cagurangan, marvic@mvguam.com Directions – Gennette Quan, Editor, editor@directionsguam.com Guam Business – Maureen Maratita, Editor, mmaratita@glimpses.guam.net Marianas Business Journal – Maureen Maratita, Editor, mmaratita@glimpses.guam.net Guahan Magazine – Jayne Flores, Editor, jayne@guahanmagazine.com Mabuhay News – Ritchie Lim, Editor mabuhaynews@yahoo.com Mariana’s Variety – Ad Section, ads@mvguam.com</p> <p><u>TV</u> KUAM Ch.8 – Sabrina Matanane, News Dir, Sabrina@KUAM.com KUAM Ch. 11 – Sabrina Matanane, News Dir, Sabrina@KUAM.com</p> <p><u>RADIO</u> I-94 FM – Fredalynn Mortera Hecita, News (Radio) fredalynn@kuam.com 610 AM – Ryan San Nicolas, ryan@kuam.com K57, Power98, 105 Rock – Patty Arroyo, News Director, parroyo@k57.com K-StereO – Jean Hudson, News Director, kstone@ite.net KISH (102.9 FM) – Jean Hudson, News Director, kstone@ite.net</p>

APPENDIX C: COMMITTEE MEMBER E-MAILS

Senator Robert Klitzkie, Chairman
 Speaker Mark Forbes, Ex-Officio
 Senator Jesse A. Lujan, Member
 Senator Larry Kasperbauer, Ph.D., Member
 Senator Ray Tenorio, Member
 Senator Benjamin J.F. Cruz, Member
 Senator Adolpho B. Palacios, Sr., Member

bob@bobsoffice.org
speakerforbes@yahoo.com
jal@netpci.net
lk4kids@ite.net
ray@raytenorio.com
cjbjcruz@ite.net
patrickcepeda@hotmail.com



SENATOR BENJAMIN J.F. CRUZ

I Mina'bente Ocho Na Liheslaturan Guahan

*Twenty-Eighth
Guam Legislature*

SENATOR B.J. CRUZ SUBMITS LEGISLATION FOR CHILD CUSTODY JURISDICTION STANDARDS

(March 3, 2005)(Hagatna, Guam) Senator Benjamin J.F. Cruz today introduced Bill 83, which would adopt the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) on Guam.

MEMBER:

*Committee on
General and
Omnibus Matters*

*Committee on
Criminal Justice,
Public Safety, Youth
and Foreign Affairs*

*Committee on
Judiciary,
Governmental
Operations and
Reorganization*

*Committee on
Health and
Human Services*

*Committee on
Tourism, Maritime,
Military and
Veterans Affairs*

"I believe that it is necessary for child custody and visitation cases to be adjudicated by the Courts in the proper jurisdiction where the children actually reside. The current loophole has caused a high number of parental abductions, which is just not right." said Cruz, a former Family Court Judge.

If passed into law, the legislation would standardize judicial protocols for interstate child custody and visitation cases removing a loophole which currently allows parental abduction of children living in other jurisdictions to Guam to avoid custody proceedings elsewhere. Guam is the last state or territory to adopt the act.

"This bill is very pro-child, and the Courts with the closest and most rational connection with the child should adjudicate these cases." said Cruz.

END END END

For more information contact Joshua Tenorio at 477-2520/1.

139 Murray Blvd., Pan American Bldg., Suite 100, Hagåtña, Guam 96910
Tel: 671.477.2520/1; Fax: 671.477.2522
Email: senadotbj@guam.net