


*I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN*  
2005 (FIRST) REGULAR SESSION

Bill No. 83 (Ec)

Introduced by:

B.J.F. Cruz 

**RELATIVE TO ADOPTING THE FEDERAL UNIFORM  
CHILD CUSTODY JURISDICTION AND  
ENFORCEMENT ACT FOR LOCAL APPLICATION  
AND ENFORCEMENT**

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

2 **Section 1. Legislative Intent.** It is the intent of *I Liheslaturan*  
3 *Guahan* to adopt the Uniform Child Custody Jurisdiction and  
4 Enforcement Act for local application and enforcement. Guam is  
5 currently the only state or territory of the United State to not adopt  
6 the act as a standard relative to interstate child custody and visitation.  
7 The adoption of this act will remove the current loophole, which  
8 allows parental kidnapping and will recognize the proper jurisdiction  
9 for adjudication of child custody cases.

10 **Section 2.** A new chapter 39 is added to Division 3 of Title 7 of  
11 the Guam Code Annotated to read as follows:

12 **"UNIFORM CHILD-CUSTODY JURISDICTION**

13 **AND ENFORCEMENT ACT**

1                                   **ARTICLE 1 - GENERAL PROVISIONS**

2                   **SECTION 101. SHORT TITLE.**

3                   **SECTION 102. DEFINITIONS.**

4                   **SECTION 103. PROCEEDINGS GOVERNED BY OTHER**  
5                   **LAW.**

6                   **SECTION 104. APPLICATION TO INDIAN TRIBES.**

7                   **SECTION 105. INTERNATIONAL APPLICATION OF ACT**

8                   **SECTION 106. EFFECT OF CHILD-CUSTODY**  
9                   **DETERMINATION.**

10                  **SECTION 107. PRIORITY.**

11                  **SECTION 108. NOTICE TO PERSONS OUTSIDE**  
12                  **TERRITORY.**

13                  **SECTION 109. APPEARANCE AND LIMITED IMMUNITY.**

14                  **SECTION 110. COMMUNICATION BETWEEN COURTS.**

15                  **SECTION 111. TAKING TESTIMONY IN ANOTHER**  
16                  **STATE.**

17                  **SECTION 112. COOPERATION BETWEEN COURTS;**  
18                  **PRESERVATION OF RECORDS.**

19                                   **ARTICLE 2 - JURISDICTION**

- 1 SECTION 201. INITIAL CHILD-CUSTODY JURISDICTION.
- 2 SECTION 202. EXCLUSIVE, CONTINUING JURISDICTION.
- 3 SECTION 203. JURISDICTION TO MODIFY
- 4 DETERMINATION.
- 5 SECTION 204. TEMPORARY EMERGENCY JURISDICTION.
- 6 SECTION 205. NOTICE; OPPORTUNITY TO BE HEARD;
- 7 JOINDER.
- 8 SECTION 206. SIMULTANEOUS PROCEEDINGS.
- 9 SECTION 207. INCONVENIENT FORUM.
- 10 SECTION 208. JURISDICTION DECLINED BY REASON OF
- 11 CONDUCT.
- 12 SECTION 209. INFORMATION TO BE SUBMITTED TO
- 13 COURT.
- 14 SECTION 210. APPEARANCE OF PARTIES AND CHILD.

15 ARTICLE 3 - ENFORCEMENT

- 16 SECTION 301. DEFINITIONS.
- 17 SECTION 302. ENFORCEMENT UNDER HAGUE
- 18 CONVENTION.
- 19 SECTION 303. DUTY TO ENFORCE.

- 1           **SECTION 304. TEMPORARY VISITATION.**
- 2           **SECTION 305. REGISTRATION OF CHILD-CUSTODY**  
3           **DETERMINATION.**
- 4           **SECTION 306. ENFORCEMENT OF REGISTERED**  
5           **DETERMINATION.**
- 6           **SECTION 307. SIMULTANEOUS PROCEEDINGS.**
- 7           **SECTION 308. EXPEDITED ENFORCEMENT OF CHILD-**  
8           **CUSTODY DETERMINATION.**
- 9           **SECTION 309. SERVICE OF PETITION AND ORDER.**
- 10          **SECTION 310. HEARING AND ORDER.**
- 11          **SECTION 311. WARRANT TO TAKE PHYSICAL CUSTODY**  
12          **OF CHILD.**
- 13          **SECTION 312. COSTS, FEES, AND EXPENSES.**
- 14          **SECTION 313. RECOGNITION AND ENFORCEMENT.**
- 15          **SECTION 314. APPEALS.**
- 16          **SECTION 315. ROLE OF PROSECUTOR OR ATTORNEY**  
17          **GENERAL.**
- 18          **SECTION 316. ROLE OF LAW ENFORCEMENT.**
- 19          **SECTION 317. COSTS AND EXPENSES.**

1                   **ARTICLE 4 - MISCELLANEOUS PROVISIONS**

2                   **SECTION 401. APPLICATION AND CONSTRUCTION.**

3                   **SECTION 402. SEVERABILITY CLAUSE.**

4                   **SECTION 403. TRANSITIONAL PROVISION.**

5                                   **ARTICLE 1**

6                                   **GENERAL PROVISIONS**

7                   **SECTION 101. SHORT TITLE.** This Act may be cited as the  
8 Uniform Child-Custody Jurisdiction and Enforcement Act.

9                   **SECTION 102. DEFINITIONS.**

10 In this Act:

11 (1) "Abandoned" means left without provision for reasonable and  
12 necessary care or supervision.

13 (2) "Child" means an individual who has not attained 18 years of age.

14 (3) "Child-custody determination" means a judgment, decree, or other  
15 order of a court providing for the legal custody, physical custody, or  
16 visitation with respect to a child. The term includes a permanent,  
17 temporary, initial, and modification order. The term does not include  
18 an order relating to child support or other monetary obligation of an  
19 individual.

1 (4) "Child-custody proceeding" means a proceeding in which legal  
2 custody, physical custody, or visitation with respect to a child is an  
3 issue. The term includes a proceeding for divorce, separation, neglect,  
4 abuse, dependency, guardianship, paternity, termination of parental  
5 rights, and protection from domestic violence, in which the issue may  
6 appear. The term does not include a proceeding involving juvenile  
7 delinquency, contractual emancipation, or enforcement under Article  
8 3.

9 (5) "Commencement" means the filing of the first pleading in a  
10 proceeding.

11 (6) "Court" means an entity authorized under the law of a State or  
12 Territory to establish, enforce, or modify a child-custody  
13 determination.

14 (7) "Home State" means the State or Territory in which a child lived  
15 with a parent or a person acting as a parent for at least six  
16 consecutive months immediately before the commencement of a  
17 child-custody proceeding. In the case of a child less than six months  
18 of age, the term means the State or Territory in which the child lived  
19 from birth with any of the persons mentioned. A period of temporary  
20 absence of any of the mentioned persons is part of the period.

21 (8) "Initial determination" means the first child-custody  
22 determination concerning a particular child.

1 (9) "Issuing court" means the court that makes a child-custody  
2 determination for which enforcement is sought under this Act.

3 (10) "Issuing State" means the State or Territory in which a child-  
4 custody determination is made.

5 (11) "Modification" means a child-custody determination that  
6 changes, replaces, supersedes, or is otherwise made after a previous  
7 determination concerning the same child, whether or not it is made  
8 by the court that made the previous determination.

9 (12) "Person" means an individual, corporation, business trust, estate,  
10 trust, partnership, limited liability company, association, joint  
11 venture, government; governmental subdivision, agency, or  
12 instrumentality; public corporation; or any other legal or commercial  
13 entity.

14 (13) "Person acting as a parent" means a person, other than a parent,  
15 who:

16 (A) has physical custody of the child or has had physical  
17 custody for a period of six consecutive months, including any  
18 temporary absence, within one year immediately before the  
19 commencement of a child-custody proceeding; and

20 (B) has been awarded legal custody by a court or claims a right  
21 to legal custody under the law of this Territory.

1 (14) "physical custody" means the physical care and supervision of a  
2 child.

3 (15) "State" means a State of the United States, the District of  
4 Columbia, Puerto Rico, the United States Virgin Islands, Guam or  
5 any territory or insular possession subject to the jurisdiction of the  
6 United States.

7 (17) "Warrant" means an order issued by a court authorizing law  
8 enforcement officers to take physical custody of a child.

9 **SECTION 103. PROCEEDINGS GOVERNED BY OTHER LAW.**

10 This Act does not govern an adoption proceeding or a proceeding  
11 pertaining to the authorization of emergency medical care for a child.

12 **SECTION 104. APPLICATION TO INDIAN TRIBES.** A child-  
13 custody proceeding that pertains to an Indian child as defined in the  
14 Indian Child Welfare Act, 25 U.S.C. § 1901 et seq., is not subject to  
15 this Act to the extent that it is governed by the Indian Child Welfare  
16 Act.

17 **SECTION 105. INTERNATIONAL APPLICATION OF ACT** (a) The  
18 Superior Court of Guam shall treat a foreign country as if it were a  
19 State of the United States for the purpose of applying Articles 1 and 2.

20 (b) Except as otherwise provided in subsection (c), a child-custody  
21 determination made in a foreign country under factual circumstances



1 in substantial conformity with the jurisdictional standards of this Act  
2 must be recognized and enforced under Article 3.

3 (c) The Superior Court of Guam need not apply this Act if the child  
4 custody law of a foreign country violates fundamental principles of  
5 human rights.

6 **SECTION 106. EFFECT OF CHILD-CUSTODY DETERMINATION.**

7 A child-custody determination made by a court of this Territory that  
8 had jurisdiction under this Act binds all persons who have been  
9 served in accordance with the laws of this Territory or notified in  
10 accordance with Section 108 or who have submitted to the  
11 jurisdiction of the court, and who have been given an opportunity to  
12 be heard. As to those persons, the determination is conclusive as to  
13 all decided issues of law and fact except to the extent the  
14 determination is modified.

15 **SECTION 107. PRIORITY.** If a question of existence or exercise of  
16 jurisdiction under this Act is raised in a child-custody proceeding, the  
17 question, upon request of a party, must be given priority on the  
18 calendar and handled expeditiously.

19 **SECTION 108. NOTICE TO PERSONS OUTSIDE TERRITORY. (a)**

20 Notice required for the exercise of jurisdiction when a person is  
21 outside this Territory may be given in a manner prescribed by the  
22 law of this Territory for service of process or by the law of the State in  
23 which the service is made. Notice must be given in a manner

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.