



Office of the Governor of Guam

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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

25 APR 2005

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 83 (EC), "RELATIVE TO ADOPTING THE FEDERAL UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT FOR LOCAL APPLICATION AND ENFORCEMENT," which I signed into law on April 22, 2005, as Public Law 28-37

Sinseru yan Magåhet,

[Handwritten signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo
Senator and Legislative Secretary

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE
ACKNOWLEDGEMENT RECEIPT
Rcv'd by: [Signature]
Print Name & Initial
Time: 3:24 Date: 4/25/05

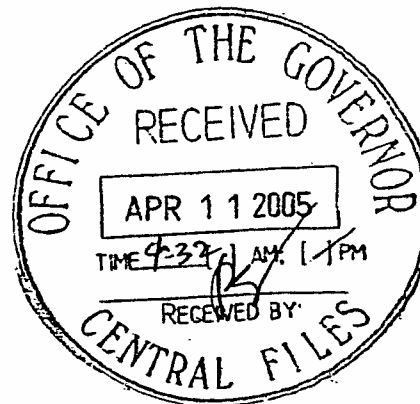
Office of the Speaker
MARK FORBES
Date: 4/26/05
Time: 13:45
Rec'd by: [Signature]
Print Name: [Signature]
28-005-0152



MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

April 11, 2005


The Honorable Felix P. Camacho
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear Maga'lahi Camacho:

Transmitted herewith are Bill Nos. 5(LS), 34(EC), 39(EC), 40(EC), 43(EC), 52(EC), 54(EC) and 83(EC); and Substitute Bill Nos. 6(LS), 9(LS), 32(EC), 56(EC), 74(EC) and 78(EC) which were passed by I Mina'Bente Ocho Na Liheslaturan Guåhan on April 9, 2005.

Sincerely,



EDWARD J.B. CALVO
Senator and Secretary of the Legislature

Enclosures (14)

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 83 (EC), "RELATIVE TO ADOPTING THE FEDERAL UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT FOR LOCAL APPLICATION AND ENFORCEMENT," was on the 9th day of April, 2005, duly and regularly passed.



Mark Forbes
Speaker

Attested:




Edward J.B. Calvo
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 11 day of April, 2005,
at 4:32 o'clock P.M.


Assistant Staff Officer
Maga'laha's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 4/22/05

Public Law No. 28-37

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 83 (EC)

As amended.

Introduced by:

B. J.F. Cruz
F. B. Aguon, Jr.
J. M.S. Brown
Edward J.B. Calvo
Mike Cruz
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
L. A. Leon Guerrero
J. A. Lujan
A. B. Palacios
R. J. Respicio
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

**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 Guåhan* to
3 adopt the Uniform Child Custody Jurisdiction and Enforcement Act for local
4 application and enforcement. Guam is currently the only state or territory of
5 the United States to not adopt the Act as a standard relative to interstate child
6 custody and visitation. The adoption of this Act will remove the current
7 loophole, which allows parental kidnapping and will recognize the proper
8 jurisdiction for adjudication of child custody cases.

1 Section 2. A new Chapter 39 is hereby *added* to Division 3 of Title 7
2 of the Guam Code Annotated to read as follows:

3 "Uniform Child-Custody Jurisdiction
4 And Enforcement Act

5 Article 1 - General Provisions

6 Section 101. Short Title.

7 Section 102. Definitions.

8 Section 103. Proceedings Governed by other Law.

9 Section 104. Application to Indian Tribes.

10 Section 105. International Application of Act.

11 Section 106. Effect of Child-Custody Determination.

12 Section 107. Priority.

13 Section 108. Notice to Persons Outside Guam.

14 Section 109. Appearance and Limited Immunity.

15 Section 110. Communication Between Courts.

16 Section 111. Taking Testimony in Another State.

17 Section 112. Cooperation Between Courts; Preservation of
18 Records.

19 Article 2 - Jurisdiction

20 Section 201. Initial Child-Custody Jurisdiction.

21 Section 202. Exclusive, Continuing Jurisdiction.

22 Section 203. Jurisdiction to Modify Determination.

23 Section 204. Temporary Emergency Jurisdiction.

24 Section 205. Notice; Opportunity to be Heard; Joinder.

25 Section 206. Simultaneous Proceedings.

1	Section 207.	Inconvenient Forum.
2	Section 208.	Jurisdiction Declined by Reason of Conduct.
3	Section 209.	Information to Be Submitted to Court.
4	Section 210.	Appearance of Parties And Child.
5		Article 3 - Enforcement
6	Section 301.	Definitions.
7	Section 302.	Enforcement Under Hague Convention.
8	Section 303.	Duty to Enforce.
9	Section 304.	Temporary Visitation.
10	Section 305.	Registration of Child-Custody Determination.
11	Section 306.	Enforcement of Registered Determination.
12	Section 307.	Simultaneous Proceedings.
13	Section 308.	Expedited Enforcement of Child-Custody
14		Determination.
15	Section 309.	Service of Petition and Order.
16	Section 310.	Hearing and Order.
17	Section 311.	Warrant to Take Physical Custody of Child.
18	Section 312.	Costs, Fees, and Expenses.
19	Section 313.	Recognition and Enforcement.
20	Section 314.	Appeals.
21	Section 315.	Role of Prosecutor or Attorney General.
22	Section 316.	Role of Law Enforcement.
23	Section 317.	Costs and Expenses.
24		Article 4 - Miscellaneous Provisions
25	Section 401.	Application and Construction.

1 (5) '*Commencement*' means the filing of the first pleading in a
2 proceeding.

3 (6) '*Court*' means an entity authorized under the law of a State or
4 Territory to establish, enforce, or modify a child-custody
5 determination.

6 (7) '*Home State*' means the State or Territory in which a child lived
7 with a parent or a person acting as a parent for at least six (6)
8 consecutive months immediately before the commencement of a
9 child-custody proceeding. In the case of a child less than six (6)
10 months of age, the term means the State or Territory in which the
11 child lived from birth with any of the persons mentioned. A
12 period of temporary absence of any of the mentioned persons is
13 part of the period.

14 (8) '*Initial determination*' means the first child-custody
15 determination concerning a particular child.

16 (9) '*Issuing court*' means the court that makes a child-custody
17 determination for which enforcement is sought under this Act.

18 (10) '*Issuing State*' means the State or Territory in which a child-
19 custody determination is made.

20 (11) '*Modification*' means a child-custody determination that
21 changes, replaces, supersedes, or is otherwise made after a
22 previous determination concerning the same child, whether or not
23 it is made by the court that made the previous determination.

24 (12) '*Person*' means an individual, corporation, business trust,
25 estate, trust, partnership, limited liability company, association,

1 joint venture, government; governmental subdivision, agency, or
2 instrumentality; public corporation; or any other legal or
3 commercial entity.

4 (13) '*Person acting as a parent*' means a person, other than a parent,
5 who:

6 (A) has physical custody of the child or has had
7 physical custody for a period of six (6) consecutive months,
8 including any temporary absence, within one (1) year
9 immediately before the commencement of a child-custody
10 proceeding; and

11 (B) has been awarded legal custody by a court or
12 claims a right to legal custody under the laws of Guam.

13 (14) '*physical custody*' means the physical care and supervision of a
14 child.

15 (15) '*State*' means a State of the United States, the District of
16 Columbia, Puerto Rico, the United States Virgin Islands, Guam or
17 any territory or insular possession subject to the jurisdiction of the
18 United States.

19 (16) '*Warrant*' means an order issued by a court authorizing law
20 enforcement officers to take physical custody of a child.

21 **Section 103. Proceedings Governed by other Law.** This Act does
22 not govern an adoption proceeding or a proceeding pertaining to the
23 authorization of emergency medical care for a child.

24 **Section 104. Application to Indian Tribes.** A child-custody
25 proceeding that pertains to an Indian child as defined in the Indian

1 Child Welfare Act, 25 U.S.C. § 1901 et seq., is not subject to this Act to
2 the extent that it is governed by the Indian Child Welfare Act.

3 **Section 105. International Application of Act.** (a) The Superior
4 Court of Guam shall treat a foreign country as if it were a State of the
5 United States for the purpose of applying Articles 1 and 2.

6 (b) Except as otherwise provided in Subsection (c), a child-custody
7 determination made in a foreign country under factual circumstances in
8 substantial conformity with the jurisdictional standards of this Act must
9 be recognized and enforced under Article 3.

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

13 **Section 106. Effect of Child-Custody Determination.** A child-
14 custody determination made by a court of Guam that had jurisdiction
15 under this Act binds all persons who have been served in accordance
16 with the laws of Guam or notified in accordance with Section 108 or
17 who have submitted to the jurisdiction of the court, and who have been
18 given an opportunity to be heard. As to those persons, the
19 determination is conclusive as to all decided issues of law and fact,
20 except to the extent the determination is modified.

21 **Section 107. Priority.** If a question of existence or exercise of
22 jurisdiction under this Act is raised in a child-custody proceeding, the
23 question, upon request of a party, must be given priority on the calendar
24 and handled expeditiously.

1 **Section 108. Notice to Persons Outside Guam.** (a) Notice required
2 for the exercise of jurisdiction when a person is outside Guam may be
3 given in a manner prescribed by the laws of Guam for service of process
4 or by the laws of the State in which the service is made. Notice must be
5 given in a manner reasonably calculated to give actual notice but may be
6 by publication if other means are not effective.

7 (b) Proof of service may be made in the manner prescribed by the
8 laws of Guam or by the laws of the State in which the service is made.

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

11 **Section 109. Appearance and Limited Immunity.** (a) A party to a
12 child-custody proceeding, including a modification proceeding, or a
13 petitioner or respondent in a proceeding to enforce or register a child-
14 custody determination, is not subject to personal jurisdiction in Guam
15 for another proceeding or purpose solely by reason of having
16 participated, or of having been physically present for the purpose of
17 participating, in the proceeding.

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

23 (c) The immunity granted by Subsection (a) does not extend to
24 civil litigation based on acts unrelated to the participation in a

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

3 **Section 110. Communication Between Courts.** (a) A court of
4 Guam may communicate with a court in another State concerning a
5 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 and
9 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. A
12 record need not be made of the communication.

13 (d) Except as otherwise provided in Subsection (c), a record must
14 be 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
18 that is inscribed on a tangible medium or that is stored in an electronic
19 or other medium and is retrievable in perceivable form.

20 **Section 111. Taking Testimony in Another State.** (a) In addition
21 to other procedures available to a party, a party to a child-custody
22 proceeding may offer testimony of witnesses who are located in another
23 State, including testimony of the parties and the child, by deposition or
24 other means allowable in Guam for testimony taken in another State.
25 The court on its own motion may order that the testimony of a person be

1 taken in another State and may prescribe the manner in which and the
2 terms upon which the testimony is taken.

3 (b) A court of Guam may permit an individual residing in another
4 State to be deposed or to testify by telephone, audiovisual means, or
5 other electronic means before a designated court or at another location
6 in that State. A court of Guam shall cooperate with courts of other States
7 in designating an appropriate location for the deposition or testimony.

8 (c) Documentary evidence transmitted from another State to a
9 court of Guam by technological means that do not produce an original
10 writing may not be excluded from evidence on an objection based on the
11 means of transmission.

12 **Section 112. Cooperation Between Courts; Preservation of**
13 **Records.** (a) A court of Guam may request the appropriate court of
14 another State to:

15 (1) hold an evidentiary hearing;

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

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

20 (4) forward to the court of Guam a certified copy of the transcript
21 of the record of the hearing, the evidence otherwise presented, and
22 any evaluation prepared in compliance with the request; and

23 (5) order a party to a child-custody proceeding or any person
24 having physical custody of the child to appear in the proceeding
25 with or without the child.

1 (b) Upon request of a court of another State, a court of Guam may
2 hold a hearing or enter an order described in Subsection (a).

3 (c) Travel and other necessary and reasonable expenses incurred
4 under Subsections (a) and (b) may be assessed against the parties
5 according to the laws of Guam.

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

12 **Article 2.**

13 **Jurisdiction**

14 **Section 201. Initial Child-Custody Jurisdiction.** (a) Except as
15 otherwise provided in Section 204, the Superior Court of Guam has
16 jurisdiction to make an initial child-custody determination only if:

17 (1) Guam is the home State of the child on the date of the
18 commencement of the proceeding, or was the home State of the
19 child within six (6) months before the commencement of the
20 proceeding and the child is absent from Guam but a parent or
21 person acting as a parent continues to live in Guam;

22 (2) a court of another State does not have jurisdiction under
23 paragraph (1), or a court of the home State of the child has
24 declined to exercise jurisdiction on the ground that Guam is the
25 more appropriate forum under Section 207 or 208, and:

1 (A) the child and the child's parents, or the child and at
2 least one (1) parent or a person acting as a parent, have a
3 significant connection with Guam other than mere physical
4 presence; and

5 (B) substantial evidence is available in Guam
6 concerning the child's care, protection, training, and
7 personal relationships;

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

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

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

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

19 **Section 202. Exclusive, Continuing Jurisdiction.** (a) Except as
20 otherwise provided in Section 204, a court of Guam which has made a
21 child-custody determination consistent with Sections 201 or 203 has
22 exclusive, continuing jurisdiction over the determination until:

23 (1) a court of Guam determines that neither the child, the
24 child's parents, and any person acting as a parent do not have a
25 significant connection with Guam and that substantial evidence is

1 no longer available in Guam concerning the child's care,
2 protection, training, and personal relationships; or

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

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

10 **Section 203. Jurisdiction to Modify Determination.** Except as
11 otherwise provided in Section 204, the Superior Court of Guam may not
12 modify a child-custody determination made by a court of another State
13 unless the Superior Court of Guam has jurisdiction to make an initial
14 determination under Section 201(a)(1) or (2) and:

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

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

22 **Section 204. Temporary Emergency Jurisdiction.** (a) The
23 Superior Court of Guam has temporary emergency jurisdiction if
24 the child is present in Guam and the child has been abandoned or
25 it is necessary in an emergency to protect the child because the

1 child, or a sibling or parent of the child, is subjected to or
2 threatened with mistreatment or abuse.

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

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

23 (d) A court of Guam which has been asked to make a child-
24 custody determination under this Section, upon being informed that a
25 child-custody proceeding has been commenced in, or a child-custody

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

11 **Section 205. Notice; Opportunity to Be Heard; Joinder.** (a) Before
12 a child-custody determination is made under this Act, notice and an
13 opportunity to be heard in accordance with the standards of Section 108
14 must be given to all persons entitled to notice under the laws of Guam
15 as in child-custody proceedings between residents of Guam, any parent
16 whose parental rights have not been previously terminated, and any
17 person having physical custody of the child.

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

20 (c) The obligation to join a party and the right to intervene as a
21 party in a child-custody proceeding under this Act are governed by the
22 laws of Guam as in child-custody proceedings between residents of
23 Guam.

24 **Section 206. Simultaneous Proceedings.** (a) Except as otherwise
25 provided in Section 204, the Superior Court of Guam may not exercise

1 its jurisdiction under this Article if, at the time of the commencement of
2 the proceeding, a proceeding concerning the custody of the child has
3 been commenced in a court of another State having jurisdiction
4 substantially in conformity with this Act, unless the proceeding has
5 been terminated or is stayed by the court of the other State because the
6 Superior Court of Guam is a more convenient forum under Section 207.

7 (b) Except as otherwise provided in Section 204, the Superior
8 Court of Guam, before hearing a child-custody proceeding, shall
9 examine the court documents and other information supplied by the
10 parties pursuant to Section 209. If the court determines that a child-
11 custody proceeding has been commenced in a court in another State
12 having jurisdiction substantially in accordance with this Act, the court of
13 Guam shall stay its proceeding and communicate with the court of the
14 other State. If the court of the State having jurisdiction substantially in
15 accordance with this Act does not determine that the court of Guam is a
16 more appropriate forum, the court of Guam shall dismiss the
17 proceeding.

18 (c) In a proceeding to modify a child-custody determination, the
19 Superior Court of Guam shall determine whether a proceeding to
20 enforce the determination has been commenced in another State. If a
21 proceeding to enforce a child-custody determination has been
22 commenced in another State, the court may:

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

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

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

5 **Section 207. Inconvenient Forum.** (a) The Superior Court of
6 Guam may decline to exercise its jurisdiction at any time if it determines
7 that it is an inconvenient forum under the circumstances and that a
8 court of another State is a more appropriate forum. The issue of
9 inconvenient forum may be raised upon motion of a party, the court's
10 own motion, or request of another court.

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

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

19 (2) the length of time the child has resided outside Guam;

20 (3) the distance between the court in Guam and the court in
21 the State that would assume jurisdiction;

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

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

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

3 (7) the ability of the court of each State to decide the issue
4 expeditiously and the procedures necessary to present the
5 evidence; and

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

8 (c) If the Superior Court of Guam determines that it is an
9 inconvenient forum and that a court of another State is a more
10 appropriate forum, it shall stay the proceedings upon condition that a
11 child-custody proceeding be promptly commenced in another
12 designated State and may impose any other condition the court
13 considers just and proper.

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

18 **Section 208. Jurisdiction Declined by Reason of Conduct.** (a)
19 Except as otherwise provided in Section 204 or by other laws of Guam, if
20 the Superior Court of Guam has jurisdiction under this Act because a
21 person seeking to invoke its jurisdiction has engaged in unjustifiable
22 conduct, the court shall decline to exercise its jurisdiction unless:

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

1 (2) a court of the State otherwise having jurisdiction under
2 Sections 201 through 203 determines that Guam is a more
3 appropriate forum under Section 207; or

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

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

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

21 **Section 209. Information to be Submitted to Court.** (a) Subject to
22 any existing law of Guam providing for the confidentiality of
23 procedures, addresses, and other identifying information, in a child-
24 custody proceeding, each party, in its first pleading or in an attached
25 affidavit, shall give information, if reasonably ascertainable, under oath

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

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

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

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

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

22 (c) If the declaration as to any of the items described in Subsection
23 (a)(1) through (3) is in the affirmative, the declarant shall give additional
24 information under oath as required by the court. The court may examine
25 the parties under oath as to details of the information furnished and

1 other matters pertinent to the court's jurisdiction and the disposition of
2 the case.

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

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

13 **Section 210. Appearance of Parties and Child.** (a) In a child-
14 custody proceeding in Guam, the court may order a party to the
15 proceeding who is in Guam to appear before the court in person with or
16 without the child. The court may order any person who is in Guam and
17 who has physical custody or control of the child to appear in person
18 with the child.

19 (b) If a party to a child-custody proceeding whose presence is
20 desired by the court is outside Guam, the court may order that a notice
21 given pursuant to Section 108 include a statement directing the party to
22 appear in person with or without the child and informing the party that
23 failure to appear may result in a decision adverse to the party.

24 (c) The court may enter any orders necessary to ensure the safety
25 of the child and of any person ordered to appear under this Section.

1 (d) If a party to a child-custody proceeding who is outside Guam
2 is directed to appear under Subsection (b) or desires to appear
3 personally before the court with or without the child, the court may
4 require another party to pay reasonable and necessary travel and other
5 expenses of the party so appearing and of the child.

6 **Article 3.**

7 **Enforcement**

8 **Section 301. Definitions.** As used in this Article:

9 (1) 'Petitioner' means a person who seeks enforcement of an
10 order for return of a child under the Hague Convention on the
11 Civil Aspects of International Child Abduction or enforcement of a
12 child-custody determination.

13 (2) 'Respondent' means a person against whom a proceeding
14 has been commenced for enforcement of an order for return of a
15 child under the Hague Convention on the Civil Aspects of
16 International Child Abduction or enforcement of a child-custody
17 determination.

18 **Section 302. Enforcement Under Hague Convention.** Under this
19 Article, the Superior Court of Guam may enforce an order for the return
20 of the child made under the Hague Convention on the Civil Aspects of
21 International Child Abduction as if it were a child-custody
22 determination.

23 **Section 303. Duty To Enforce.** (a) The Superior Court of Guam
24 shall recognize and enforce a child-custody determination of a court of
25 another State if the latter court exercised jurisdiction in substantial

1 conformity with this Act or the determination was made under factual
2 circumstances meeting the jurisdictional standards of this Act and the
3 determination has not been modified in accordance with this Act.

4 (b) The Superior Court of Guam may utilize any remedy available
5 under other laws of Guam to enforce a child-custody determination
6 made by a court of another State. The remedies provided in this Article
7 are cumulative and do not affect the availability of other remedies to
8 enforce a child-custody determination.

9 **Section 304. Temporary Visitation.** (a) A court of Guam which
10 does not have jurisdiction to modify a child-custody determination, may
11 issue a temporary order enforcing:

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

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

16 (b) If a court of Guam makes an order under Subsection (a)(2), it
17 shall specify in the order a period that it considers adequate to allow the
18 petitioner to obtain an order from a court having jurisdiction under the
19 criteria specified in Article 2. The order remains in effect until an order
20 is obtained from the other court or the period expires.

21 **Section 305. Registration Of Child-Custody Determination.** (a) A
22 child-custody determination issued by a court of another State may be
23 registered in Guam, with or without a simultaneous request for
24 enforcement, by sending to the Superior Court of Guam:

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

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

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

11 (b) On receipt of the documents required by Subsection (a), the
12 registering court shall:

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

16 (2) serve notice upon the persons named pursuant to
17 Subsection (a)(3) and provide them with an opportunity to contest
18 the registration in accordance with this Section.

19 (c) The notice required by Subsection (b)(2) must state that:

20 (1) a registered determination is enforceable as of the date of
21 the registration in the same manner as a determination issued by
22 the Superior Court of Guam;

23 (2) a hearing to contest the validity of the registered
24 determination must be requested within twenty (20) days after
25 service of notice; and

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

5 (d) A person seeking to contest the validity of a registered order
6 must request a hearing within twenty (20) days after service of the
7 notice. At that hearing, the court shall confirm the registered order
8 unless the 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
11 has been vacated, stayed, or modified by a court having
12 jurisdiction to do so under Article 2; or

13 (3) the person contesting registration was entitled to notice,
14 but 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 law
19 and the person requesting registration and all persons served must be
20 notified of the confirmation.

21 (f) Confirmation of a registered order, whether by operation of law
22 or after notice and hearing, precludes further contest of the order with
23 respect to any matter that could have been asserted at the time of
24 registration.

1 **Section 306. Enforcement Of Registered Determination.** (a) The
2 Superior Court of Guam may grant any relief normally available under
3 the laws of Guam to enforce a registered child-custody determination
4 made by a court of another State.

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

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

16 **Section 308. Expedited Enforcement Of Child-Custody**
17 **Determination.** (a) A petition under this Article must be verified.
18 Certified copies of all orders sought to be enforced and of any order
19 confirming registration must be attached to the petition. A copy of a
20 certified copy of an order may be attached instead of the original.

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

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

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

5 (3) whether any proceeding has been commenced that could
6 affect the current proceeding, including proceedings relating to
7 domestic violence, protective orders, termination of parental rights,
8 and adoptions and, if so, identify the court, the case number, and
9 the nature of the proceeding;

10 (4) the present physical address of the child and the
11 respondent, if known;

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

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

19 (c) Upon the filing of a petition, the court shall issue an order
20 directing the respondent to appear in person with or without the child
21 at a hearing and may enter any order necessary to ensure the safety of
22 the parties and the child. The hearing must be held on the next judicial
23 day after service of the order unless that date is impossible. In that event,
24 the court shall hold the hearing on the first judicial day possible. The
25 court may extend the date of hearing at the request of the petitioner.

1 (d) An order issued under Subsection (c) must state the time and
2 place of the hearing and advise the respondent that at the hearing the
3 court will order that the petitioner may take immediate physical custody
4 of the child and the payment of fees, costs, and expenses under Section
5 312, and may schedule a hearing to determine whether further relief is
6 appropriate, unless the respondent appears and establishes that:

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

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

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

14 (C) the respondent was entitled to notice, but notice
15 was not given in accordance with the standards of Section
16 108, in the proceedings before the court that issued the order
17 for which enforcement is sought; or

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

22 **Section 309. Service of Petition and Order.** Except as otherwise
23 provided in Section 311, the petition and order must be served, by any
24 method authorized by the laws of Guam, upon respondent and any
25 person who has physical custody of the child.

1 **Section 310. Hearing And Order.** (a) Unless the court issues a
2 temporary emergency order pursuant to Section 204, upon a finding that
3 a petitioner is entitled to immediate physical custody of the child, the
4 court shall order that the petitioner may take immediate physical
5 custody of the child unless the respondent establishes that:

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

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

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

14 (C) the respondent was entitled to notice, but notice
15 was not given in accordance with the standards of Section
16 108, in the proceedings before the court that issued the order
17 for which enforcement is sought; or

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

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

1 (c) If a party called to testify refuses to answer on the ground that
2 the 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 Child.** (a) Upon
9 the filing of a petition seeking enforcement of a child-custody
10 determination, the petitioner may file a verified application for the
11 issuance of a warrant to take physical custody of the child if the child is
12 immediately likely to suffer serious physical harm or be removed from
13 Guam.

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

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

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

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

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

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

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

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

15 **Section 312. Costs, Fees, and Expenses.** (a) The court shall award
16 the prevailing party, including a State, necessary and reasonable
17 expenses incurred by or on behalf of the party, including costs,
18 communication expenses, attorney's fees, investigative fees, expenses for
19 witnesses, travel expenses, and child care during the course of the
20 proceedings, unless the party from whom fees or expenses are sought
21 establishes that the award would be clearly inappropriate.

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

24 **Section 313. Recognition And Enforcement.** The Superior Court
25 of Guam shall accord full faith and credit to an order issued by another

1 State and consistent with this Act which enforces a child-custody
2 determination by a court of another State unless the order has been
3 vacated, stayed, or modified by a court having jurisdiction to do so
4 under Article 2.

5 **Section 314. Appeals.** An appeal may be taken from a final order
6 in a proceeding under this Article in accordance with expedited
7 appellate procedures in other civil cases. Unless the court enters a
8 temporary emergency order under Section 204, the enforcing court may
9 not stay an order enforcing a child-custody determination pending
10 appeal.

11 **Section 315. Role of Prosecutor or Attorney General.** (a) In a case
12 arising under this Act or involving the Hague Convention on the Civil
13 Aspects of International Child Abduction, the prosecutor or other
14 appropriate public official may take any lawful action, including resort
15 to a proceeding under this Article or any other available civil
16 proceeding to locate a child, obtain the return of a child, or enforce a
17 child-custody determination if there is:

18 (1) an existing child-custody determination;

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

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

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

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

3 **Section 316. Role of Law Enforcement.** At the request of a
4 prosecutor or other appropriate public official acting under Section 315,
5 a law enforcement officer may take any lawful action reasonably
6 necessary to locate a child or a party and assist a prosecutor or
7 appropriate public official with responsibilities under Section 315.

8 **Section 317. Costs and Expenses.** If the respondent is not the
9 prevailing party, the court may assess against the respondent all direct
10 expenses and costs incurred by the prosecutor or other appropriate
11 public official and law enforcement officers under Section 315 or 316.

12 **Article 4.**

13 **Miscellaneous Provisions**

14 **Section 401. Application and Construction.** In applying and
15 construing this Uniform Act, consideration must be given to the need to
16 promote uniformity of the law with respect to its subject matter among
17 States that enact it.

18 **Section 402. Severability.** *If* any provision of this Act or its
19 application to any person or circumstance is held invalid, the invalidity
20 does *not* affect other provisions or applications of this Act which can be
21 given effect without the invalid provision or application, and to this end
22 the provisions of this Act are severable.

23 **Section 403. Transitional Provision.** A motion or other request
24 for relief made in a child-custody proceeding or to enforce a child-
25 custody determination which was commenced before the effective date

1 of this Act is governed by the law in effect at the time the motion or
2 other request was made.”

6

I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN
2005 (FIRST) Regular Session

Date: 4/9/05

VOTING SHEET

Bill No. 83 (EC)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
AGUON, Frank B., Jr.	✓				EA
BROWN, Joanne M.S.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J.F,	✓				
CRUZ, Michael (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
KLITZKIE, Robert	✓				
LEON GUERRERO, Lourdes A.	✓				
LUJAN, Jesse A.	✓				
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.	✓				
TENORIO, Ray	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

14 0 0 0 1

CERTIFIED TRUE AND CORRECT:


 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence



Bob's Office

The Office of Senator Robert Klitzkie

197 Hernan Cortes Ave., Suite A-1
Hagatna, Guam 96910

(671) 472-9355 • bob@bobsoffice.org • www.bobsoffice.org

MEMORANDUM

TO: Senator Robert Klitzkie, Chairman
Committee on Calendar

FROM: Senator Robert Klitzkie, Chairman
Committee on Judiciary, Governmental Operations, and Reorganization

DATE: April 1, 2005

RE: Bill 83 - Committee Report

The Committee on Judiciary, Governmental Operations, and Reorganization, to which was referred **BILL 83 (EC) RELATIVE TO ADOPTING THE FEDERAL UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT FOR LOCAL APPLICATION AND ENFORCEMENT**, has had the same under consideration, and now wishes to report back the same with the recommendation **to pass**.

Transmitted herewith for your consideration and action is our committee report on the above subject matter.

The Committee votes are as follows:

6 TO PASS

0 NOT TO PASS

0 TO REPORT OUT ONLY

0 ABSTAIN

0 INACTIVE FILE

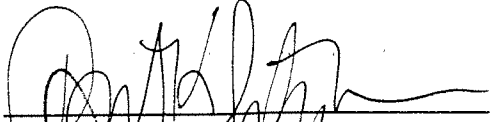
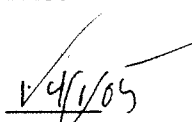
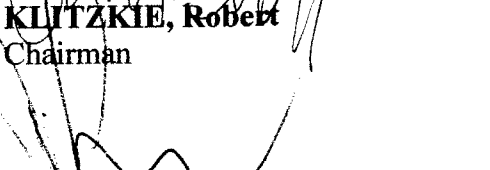
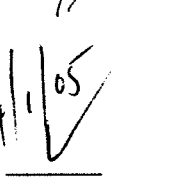
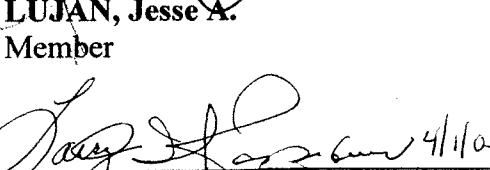
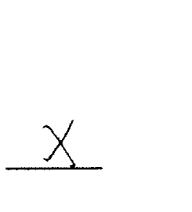
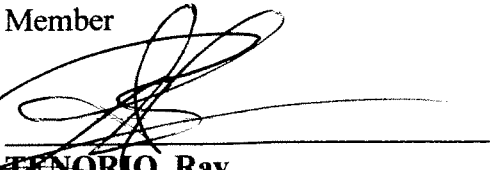
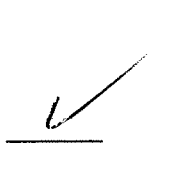
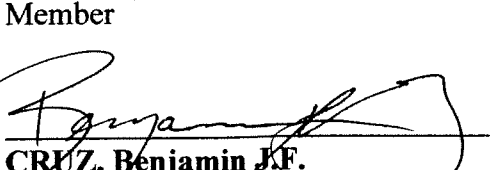
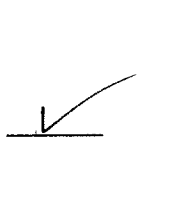
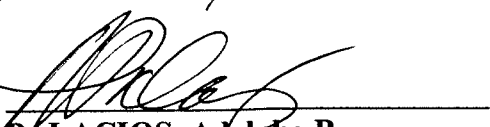
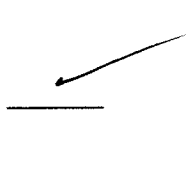
A copy of the committee report and other pertinent documents are attached for your immediate reference.

Any questions on the report and the accompanying documents should be directed to Senator Klitzkie's office via email at bob@bobsoffice.org or by phone at 472-9355.

**MINA BENTE OCHO NA LIHESLATURAN GUAHAN
COMMITTEE ON JUDICIARY, GOVERNMENTAL
OPERATIONS AND REORGANIZATION**

VOTING SHEET

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

COMMITTEE MEMBERS:	TO PASS	NOT TO PASS	TO ABSTAIN	TO REPORT OUT ONLY
 KLITZKIE, Robert Chairman		_____	_____	_____
 LUJAN, Jesse A. Member		_____	_____	_____
 KASPERBAUER, Larry Member		_____	_____	_____
 TENORIO, Ray Member		_____	_____	_____
 CRUZ, Benjamin J.F. Member		_____	_____	_____
 PALACIOS, Adolpho B. Member		_____	_____	_____

2nd 3rd
4-7-05 4-8-05

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

Bill No. 83 (EC)

Introduced by:

B.J.F. Cruz

2005 MAR - 30
ATTN: 368

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