EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

APR 07 2015

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Tres Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

2015 APR -9 AM 11:29

Dear Madame Speaker:

Transmitted herewith is Bill No. 41-33 (COR) **"AN ACT TO *REPEAL* AND *REENACT* CHAPTER 35 OF DIVISION 3, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ADOPTING REVISIONS TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT"** which was signed into law on April 1, 2015, as **Public Law 33-14.**

Senseramente,

RAYMOND S. TENORIO
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

33-15-0316
Office of the Speaker
Judith T. Won Pat, Ed.D
Date: 04-08-15
Time: 10:42AM
Received By:

0316

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

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

This is to certify that **Substitute Bill No. 41-33 (COR), "AN ACT TO *REPEAL* AND *REENACT* CHAPTER 35 OF DIVISION 3, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ADOPTING REVISIONS TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT,"** was on the 20th day of March, 2015, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Rory J. Respicio
Acting Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 20th day of March, 2015, at 7:11 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: APR 01 2015

Public Law No. 33-14

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

Bill No. 41-33 (COR)
As substituted by the Committee on Appropriations
and Adjudication.

Introduced by:

B. J.F. Cruz
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
Frank F. Blas, Jr.
James V. Espaldon
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Michael F.Q. San Nicolas
Mary Camacho Torres
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

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

BE IT ENACTED BY THE PEOPLE OF GUAM:

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 Chapter 35 of Division 3, Title 5, Guam Code Annotated, is hereby *repealed* and *reenacted* to read as follows:

"CHAPTER 35

UNIFORM INTERSTATE FAMILY SUPPORT ACT

Article 1. General Provisions.
Article 2. Jurisdiction.
Article 3. Civil Provisions of General Application.
Article 4. Establishment of Support Order or Determination of Parentage.
Article 5. Enforcement of Support Order Without Registration.
Article 6. Registration, Enforcement, and Modification of Support Order.
Article 7. Support Proceeding Under Convention.
Article 8. Interstate Rendition.
Article 9. Miscellaneous Provisions.

ARTICLE 1
GENERAL PROVISIONS

§ 35101. Short Title.
§ 35102. Definitions.
§ 35103. State Tribunal and Support Enforcement Agency.
§ 35104. Remedies Cumulative.
§ 35105. Application of Act to Resident of Foreign Country and Foreign Support Proceeding.

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

§ 35102. Definitions. In this Act:

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

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

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

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

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

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

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

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

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

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

(7) *Foreign tribunal* means a court, administrative agency, or quasi-judicial entity of a foreign country that is authorized to establish, enforce, or modify support orders or to determine parentage

of a child. The term includes a competent authority under the Convention.

(8) *Home state* means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six (6) months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six (6)-month or other period.

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

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

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

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

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

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

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

(16) *Obligee* means:

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

(B) a foreign country, state, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support;

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

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

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

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

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

(C) is liable under a support order; or

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

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

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

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

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

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

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

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

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

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

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

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

(B) seek establishment or modification of child support;

(C) request determination of parentage of a child;

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

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

(28) *Support order* means a judgment, decree, order, decision, or directive, whether temporary, final, or subject to modification, issued in a state or foreign country for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive support, or reimbursement for financial assistance provided to an individual obligee in place of child support. The term may include related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney's fees, and other relief.

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

§ 35103. State Tribunal and Support Enforcement Agency.

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

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

§ 35104. Remedies Cumulative.

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

(b) This Act does not:

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

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

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

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

(1) a foreign support order;

(2) a foreign tribunal; or

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

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

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

ARTICLE 2

JURISDICTION

§ 35201. Bases for Jurisdiction over Nonresident.

§ 35202. Duration of Personal Jurisdiction.

§ 35203. Initiating and Responding Tribunal of State.
§ 35204. Simultaneous Proceedings.
§ 35205. Continuing, Exclusive Jurisdiction to Modify Child-Support Order.
§ 35206. Continuing Jurisdiction to Enforce Child-Support Order.
§ 35207. Determination of Controlling Child-Support Order.
§ 35208. Child-Support Orders for Two or More Obligees.
§ 35209. Credit for Payments.
§ 35210. Application of Act to Nonresident Subject to Personal Jurisdiction.
§ 35211. Continuing, Exclusive Jurisdiction to Modify Spousal-Support Order.

§ 35201. Bases for Jurisdiction over Nonresident.

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

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

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

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

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

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

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

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

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

(b) The bases of personal jurisdiction set forth in Subsection 35201(a), or in any other law of this state, may *not* be used to acquire personal jurisdiction for a tribunal of this state to modify a child-support order of another state unless the requirements of § 35611 are met, or, in the case of a foreign support order, unless the requirements of § 35615 are met.

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

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

§ 35204. Simultaneous Proceedings.

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

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

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

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

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

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

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

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

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

(a) A tribunal of this state that has issued a child-support order consistent with the law of this state has and *shall* exercise

continuing, exclusive jurisdiction to modify its child-support order if the order is the controlling order and:

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

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

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

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

(2) its order is not the controlling order.

(c) If a tribunal of another state has issued a child-support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to that Act which modifies a child-support order of a tribunal of

this state, tribunals of this state *shall* recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

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

(e) A temporary support order issued *ex parte* or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

§ 35206. Continuing Jurisdiction to Enforce Child-Support Order.

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

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

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

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

§ 35207. Determination of Controlling Child-Support Order.

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

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

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

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

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

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

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

(c) If two (2) or more child-support orders have been issued for the same obligor and same child, upon request of a party who is an individual or that is a support enforcement agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee

who is an individual *shall* determine which order controls under Subsection (b). The request may be filed with a registration for enforcement or registration for modification pursuant to Article 6, or may be filed as a separate proceeding.

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

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

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

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

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

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

(g) Within thirty (30) days after issuance of an order determining which is the controlling order, the party obtaining the order *shall* file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified

copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

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

§ 35208. Child-Support Orders for Two or More Obligees. In responding to registrations or petitions for enforcement of two (2) or more child-support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one (1) of which was issued by a tribunal of another state or a foreign country, a tribunal of this state *shall* enforce those orders in the same manner as if the orders had been issued by a tribunal of this state.

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

§ 35210. Application of Act to Nonresident Subject to Personal Jurisdiction. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this Act, under any other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to § 35316, communicate with a tribunal outside this state pursuant to § 35317, and obtain discovery through a tribunal outside this state pursuant to § 35318. In all other

respects, Articles 3 through 6 do not apply, and the tribunal *shall* apply the procedural and substantive law of this state.

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

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

(b) A tribunal of this state may not modify a spousal-support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

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

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

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

ARTICLE 3

CIVIL PROVISIONS OF GENERAL APPLICATION

§ 35301. Proceedings Under Act.
§ 35302. Proceeding by Minor Parent.
§ 35303. Application of Law of State.
§ 35304. Duties of Initiating Tribunal.
§ 35305. Duties and Powers of Responding Tribunal.
§ 35306. Inappropriate Tribunal.

§ 35307. Duties of Support Enforcement Agency.
§ 35308. Duty of Administrative Hearings Officer or Unified Courts of Guam.
§ 35309. Private Counsel.
§ 35310. Duties of Child Support Enforcement Division.
§ 35311. Pleadings and Accompanying Documents.
§ 35312. Nondisclosure of Information in Exceptional Circumstances.
§ 35313. Costs and Fees.
§ 35314. Limited Immunity of Petitioner.
§ 35315. Nonparentage as Defense.
§ 35316. Special Rules of Evidence and Procedure.
§ 35317. Communications Between Tribunals.
§ 35318. Assistance with Discovery.
§ 35319. Receipt and Disbursement of Payments.

§ 35301. Proceedings Under Act.

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

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

§ 35302. Proceeding by Minor Parent. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

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

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

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

§ 35304. Duties of Initiating Tribunal.

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

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

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

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

§ 35305. Duties and Powers of Responding Tribunal.

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

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

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

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

(3) order income withholding;

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

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

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

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

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

(9) issue a bench warrant for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal

and enter the bench warrant in any local and state computer systems for criminal warrants;

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

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

(12) grant any other available remedy.

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

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

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

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

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

1 **§ 35307. Duties of Support Enforcement Agency.**

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

4 (1) *shall* provide services to a petitioner residing in a
5 state;

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

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

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

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

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

18 (3) make a reasonable effort to obtain all relevant
19 information, including information as to income and property of
20 the parties;

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

25 (5) within two (2) days, exclusive of Saturdays,
26 Sundays, and legal holidays, after receipt of communication in

a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

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

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

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

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

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

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

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

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

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

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

§ 35309. Private Counsel. An individual may employ private counsel to represent the individual in proceedings authorized by this Act.

§ 35310. Duties of Child Support Enforcement Division.

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

(b) The state information agency *shall*:

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

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

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

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by any other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

§ 35311. Pleadings and Accompanying Documents.

(a) In a proceeding under this Act, a petitioner seeking to establish a support order, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or a foreign country must file a petition. Unless otherwise ordered under § 35312, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may

include any other information that may assist in locating or identifying the respondent.

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

§ 35312. Nondisclosure of Information in Exceptional Circumstances. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

§ 35313. Costs and Fees.

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

(b) If an obligee prevails, a responding tribunal of this state may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or responding state or foreign country, except as provided by any other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name.

Payment of support owed to the obligee has priority over fees, costs, and expenses.

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

§ 35314. Limited Immunity of Petitioner.

(a) Participation by a petitioner in a proceeding under this Act before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

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

(c) The immunity granted by this Section does not extend to civil litigation based on acts unrelated to a proceeding under this Act committed by a party while physically present in this state to participate in the proceeding.

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

§ 35316. Special Rules of Evidence and Procedure.

(a) The physical presence of a nonresident party who is an individual in a tribunal of this state is not required for the

establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

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

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

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

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

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

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

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

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

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

§ 35317. Communications Between Tribunals. A tribunal of this state may communicate with a tribunal outside this state in a record or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.

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

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

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

§ 35319. Receipt and Disbursement of Payments.

(a) A support enforcement agency or tribunal of this state *shall* disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal *shall* furnish to a requesting party or tribunal of another state or a foreign country a

certified statement by the custodian of the record of the amounts and dates of all payments received.

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

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

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

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

ARTICLE 4
ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION OF PARENTAGE

§ 35401. Establishment of Support Order.
§ 35402. Proceeding to Determine Parentage.

§ 35401. Establishment of Support Order.

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

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

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

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

(1) a presumed father of the child;

(2) petitioning to have his paternity adjudicated;

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

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

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

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

(7) the mother of the child; or

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

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

§ 35402. Proceeding to Determine Parentage. A tribunal of this state authorized to determine parentage of a child may serve as a responding

tribunal in a proceeding to determine parentage of a child brought under this Act, or a law or procedure substantially similar to this Act.

ARTICLE 5

ENFORCEMENT OF SUPPORT ORDER WITHOUT REGISTRATION

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

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

§ 35503. Employer's Compliance with Two or More Income-Withholding Orders.

§ 35504. Immunity from Civil Liability.

§ 35505. Penalties for Noncompliance.

§ 35506. Contest by Obligor.

§ 35507. Administrative Enforcement of Orders.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 35503. Employer's Compliance with Two or More Income-Withholding Orders. If an obligor's employer receives two (2) or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for two (2) or more child-support obligees.

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

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

§ 35506. Contest by Obligor.

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

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

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

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

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

§ 35507. Administrative Enforcement of Orders.

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

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

ARTICLE 6

REGISTRATION, ENFORCEMENT, AND MODIFICATION OF SUPPORT ORDER

Part 1. Registration for Enforcement of Support Order.

Part 2. Contest of Validity or Enforcement.
Part 3. Registration and Modification of Child-Support Order of Another State.
Part 4. Registration and Modification of Foreign Child-Support Order.

PART 1

REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER

§ 35601. Registration of Order for Enforcement.
§ 35602. Procedure to Register Order for Enforcement.
§ 35603. Effect of Registration for Enforcement.
§ 35604. Choice of Law.

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

§ 35602. Procedure to Register Order for Enforcement.

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

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two (2) copies, including one (1) certified copy, of the order to be registered, including any modification of the order;

(3) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(A) the obligor's address and social security number;

(B) the name and address of the obligor's employer and any other source of income of the obligor; and

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

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

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

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

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

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

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

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

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

§ 35603. Effect of Registration for Enforcement.

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

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

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

§ 35604. Choice of Law.

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

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

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

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

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

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

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

PART 2

CONTEST OF VALIDITY OR ENFORCEMENT

§ 35605. Notice of Registration of Order.

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

§ 35607. Contest of Registration or Enforcement.

§ 35608. Confirmed Order.

§ 35605. Notice of Registration of Order.

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

(b) A notice must inform the nonregistering party:

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

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

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

(4) of the amount of any alleged arrearages.

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

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

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

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

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

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

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

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

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

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

§ 35607. Contest of Registration or Enforcement.

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

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

(2) the order was obtained by fraud;

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

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

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

(6) full or partial payment has been made;

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

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

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

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

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

PART 3

REGISTRATION AND MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER STATE

§ 35609. Procedure to Register Child-Support Order of Another State for Modification.
§ 35610. Effect of Registration for Modification.
§ 35611. Modification of Child-Support Order of Another State.
§ 35612. Recognition of Order Modified in Another State.
§ 35613. Jurisdiction to Modify Child-Support Order of Another State When Individual Parties Reside in this State.
§ 35614. Notice to Issuing Tribunal of Modification.

§ 35609. Procedure to Register Child-Support Order of Another State for Modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a child-support order issued in another state *shall* register that order in this state in the same manner provided in §§ 35601 through 35608 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

§ 35610. Effect of Registration for Modification. A tribunal of this state may enforce a child-support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered support order may be modified only if the requirements of § 35611 or § 35613 have been met.

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

(a) If § 35613 does not apply, upon petition, a tribunal of this state may modify a child-support order issued in another state which

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

(1) the following requirements are met:

(A) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A tribunal of this state exercising jurisdiction under this Section *shall* apply the provisions of Articles 1 and 2, this Article, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Articles 3, 4, 5, 7, and 8 do not apply.

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

PART 4

REGISTRATION AND MODIFICATION OF FOREIGN CHILD-SUPPORT ORDER

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

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

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

(a) Except as otherwise provided in § 35711, if a foreign country lacks or refuses to exercise jurisdiction to modify its child-support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child-support order and bind all individuals subject to the personal jurisdiction of the tribunal, whether the consent to modification of a child-support order otherwise required of the individual pursuant to § 35611 has been given, or whether the individual seeking modification is a resident of this state or of the foreign country.

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

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

ARTICLE 7

SUPPORT PROCEEDING UNDER CONVENTION

§ 35701. Definitions.

§ 35702. Applicability.

§ 35703. Relationship of Child Support Enforcement Division to United States Central Authority.

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

§ 35705. Direct Request.
§ 35706. Registration of Convention Support Order.
§ 35707. Contest of Registered Convention Support Order.
§ 35708. Recognition and Enforcement of Registered Convention Support Order.
§ 35709. Partial Enforcement.
§ 35710. Foreign Support Agreement.
§ 35711. Modification of Convention Child-Support Order.
§ 35712. Personal Information; Limit on Use.
§ 35713. Record in Original Language; English Translation.

§ 35701. Definitions. In this Article:

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

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

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

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

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

(f) *Foreign support agreement*:

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

(A) is enforceable as a support order in the country of origin;

(B) has been:

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

(ii) authenticated by, or concluded, registered, or filed with a foreign tribunal; and

(C) may be reviewed and modified by a foreign tribunal; and

(2) includes a maintenance arrangement or authentic instrument under the Convention.

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

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

§ 35703. Relationship of Child Support Enforcement Division to United States Central Authority. The Child Support Enforcement Division of this state is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.

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

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

(1) transmit and receive applications; and

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 35705. Direct Request.

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

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

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

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

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

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

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

§ 35706. Registration of Convention Support Order.

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

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

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

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

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

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

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

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

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

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

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

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

§ 35707. Contest of Registered Convention Support Order.

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

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

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

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

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

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

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

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

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

§ 35708. Recognition and Enforcement of Registered Convention Support Order.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 35710. Foreign Support Agreement.

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

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

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

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

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

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

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

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

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

(4) the record submitted under Subsection (b) lacks authenticity or integrity.

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

§ 35711. Modification of Convention Child-Support Order.

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

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

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

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

§ 35712. Personal Information; Limit on Use. Personal information gathered or transmitted under this Article may be used only for the purposes for which it was gathered or transmitted.

§ 35713. Record in Original Language; English Translation. A record filed with a tribunal of this state under this Article must be in the original language and, if not in English, must be accompanied by an English translation.

ARTICLE 8

INTERSTATE RENDITION

§ 35801. Grounds for Rendition.

§ 35802. Conditions of Rendition.

§ 35801. Grounds for Rendition.

(a) For purposes of this Article, *governor* includes an individual performing the functions of governor or the executive authority of a state covered by this Act.

(b) The governor of this state may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand of the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this Act applies to the demand even if the individual whose

surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

§ 35802. Conditions of Rendition.

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

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

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

ARTICLE 9

MISCELLANEOUS PROVISIONS

§ 35901. Uniformity of Application and Construction.
§ 35902. Transitional Provision.
§ 35903. Severability.
§ 35904. Repeals.
§ 35905. Effective Date.

§ 35901. Uniformity of Application and Construction. In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

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

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

§ 35904. Repeals. The following are repealed:

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

§ 35905. Effective Date. This Act *shall* become effective upon enactment."