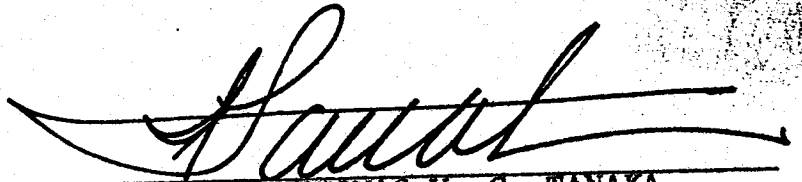


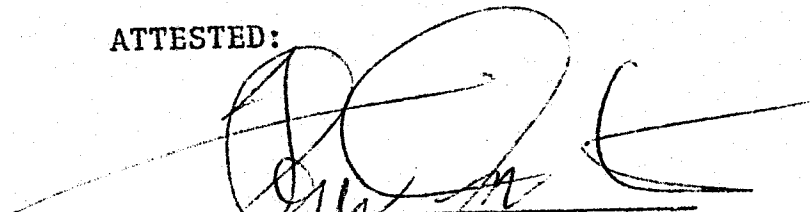
SIXTEENTH GUAM LEGISLATURE
1981 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

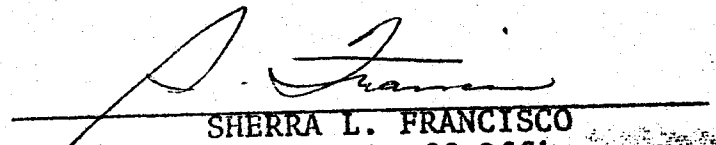
This is to certify that Substitute Bill No. 308, "An Act to establish the Child Support Enforcement Office in the Department of Public Health and Social Services," was on the 5th day of May 1981, duly and regularly passed.


THOMAS V. C. TANAKA
Speaker

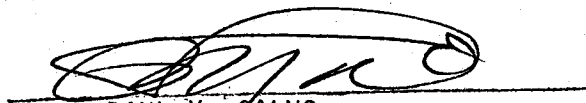
ATTESTED:


THOMAS C. CRISOSTOMO
Legislative Secretary

This Act was received by the Governor this 12th day of
May, 1981, at 4:15 o'clock P.M.


SHERRA L. FRANCISCO
Assistant Staff Officer
Governor's Staff

APPROVED:


PAUL M. SALVO
Governor of Guam

DATED: 5/22/81 2:46 P.M.
P.L. 16-010

SIXTEENTH GUAM LEGISLATURE
1981 (FIRST) Regular Session

Bill No. 308
(As Substituted by
the Committee on
Health, Welfare and
Cultural Affairs)

Introduced by: C. A. Kasperbauer, K. S. Moylan

AN ACT TO ESTABLISH THE CHILD SUPPORT ENFORCEMENT
OFFICE IN THE DEPARTMENT OF PUBLIC HEALTH AND
SOCIAL SERVICES.

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

2 Section 1. A new Subchapter C-1 is added to Chapter II of
3 Title X of the Government Code to read:

4 "SUBCHAPTER C-1

5 Enforcement of Support

6 Section 9120.50. Definitions. As used in this Sub-
7 chapter:

8 (1) 'absent parent' means any person who is
9 responsible for the support of a child, who is absent
10 from the household, whether such person's location
11 is known or unknown, and who fails to provide for
12 the support of such child;

13 (2) 'Department' means the Department of Public
14 Health and Social Services;

15 (3) 'dependent child' means a person who has
16 not reached the age of majority or who is eligible
17 for assistance to dependent children;

18 (4) 'Director' means the Director of the Depart-
19 ment of Public Health and Social Services; and

1 (5) 'Public Assistance' or 'Assistance' means
2 any money payments made by the Department which are
3 paid to or for the benefit of any dependent child.

4 Section 9120.51. There shall be in the Department
5 a Child Support Enforcement Office which shall carry out
6 the provisions of this Subchapter. Reports and information
7 obtained pursuant to this Subchapter shall be confidential
8 and shall only be made available as necessary to:

9 (a) a duly authorized official of the Attorney
10 General's Office or the Child Support Enforcement Unit
11 in the course of his official duties; or

12 (b) a court of competent jurisdiction. Any
13 person who wilfully releases or permits the release
14 of any data and information pertinent to any child
15 support case to persons or agencies not permitted
16 by this Subchapter shall be guilty of a misdemeanor.

17 Section 9120.52. Dependent children; absent parent.

18 (a) The department, when the whereabouts of the parent is
19 unknown, shall give prompt notification to the Attorney
20 General and to appropriate law enforcement officials at
21 the time the application is signed for aid to dependent
22 children.

23 (b) In all cases in which the absent parent is in
24 the territory and his whereabouts is known, the department
25 shall interview such parent as soon as possible after the
26 application for assistance is signed. The department shall
27 determine such parent's ability to support his or her
28 children, make arrangements for complying with his obliga-
29 tion to support his or her children, discuss his or her
30 parental responsibilities and explore the possibility of the
31 resumption of a parental relationship with the children.

1 (c) If the department is unable to enter into a
2 satisfactory support agreement with the absent parent
3 within forty-five (45) days after the application for
4 assistance is signed, the department shall refer the case
5 to the Attorney General unless it has definitely determined
6 that the absent parent because of physical or mental
7 disability is financially incapable of supporting the
8 child.

9 (d) Notwithstanding any provision of this section,
10 the department shall refer to the Attorney General any case
11 in which one or more of the following factors appear:

12 (1) the absent parent refuses to be interviewed
13 to provide necessary information or to discuss parental
14 responsibilities;

15 (2) there is reason to believe that the parent
16 may flee or hide if contacted by the department;

17 (3) the absent parent refuses to make a contribu-
18 tion in accordance with his or her financial ability;

19 (4) the absent parent's previous history in-
20 dicates that although he or she is capable of a
21 support contribution, efforts by the department to
22 obtain support would be fruitless;

23 (5) legal action is necessary to establish
24 paternity; or

25 (6) the absent parent has entered into an agree-
26 ment with the department to support his or her child
27 and without good cause has failed to comply with that
28 agreement for an unreasonable period, which in no
29 event shall exceed sixty (60) days.

1 Section 9120.53. Action. (a) When a spouse or minor
2 children are recipients of public assistance, the depart-
3 ment may bring an action in its own name or join in an
4 action already in existence against the person responsible
5 for the support of such recipients:

6 (1) to recover amounts expended by the department
7 on behalf of said recipients or such amounts as may
8 be due and owing under an existing court order, which-
9 ever is less; and

10 (2) for a continuing order of support for the
11 benefit of such recipients.

12 (b) When the paternity of a minor child receiving
13 public assistance has not been legally established, the
14 department may bring an action on behalf of the minor child
15 against the alleged father:

16 (1) for a judgment establishing paternity;

17 (2) to recover amounts expended by the department
18 on behalf of such child; and

19 (3) for a continuing order of support for the
20 benefit of the child.

21 (c) However, when a person allegedly charged with
22 responsibility for the support of such recipient, is
23 exonerated by a court of competent jurisdiction from
24 paternity, he or she shall be entitled to costs incurred
25 in his or her defense from the department.

1 Section 9120.54. Enforcement of support; procedure.

2 (a) In any case required by law to be referred to the
3 Attorney General, the department shall file an affidavit in
4 the Office of the Attorney General setting forth the names,
5 ages and addresses of the persons for whom support is sought,
6 the name and address of the parent having control or custody
7 of the child, the name and address of the parent responsible
8 under law for support of the child, the legal basis for such
9 duty of support, the amount of money expended by the depart-
10 ment as of that time, the needs of the family according to
11 welfare budgetary standards, the amount due and owing under
12 an existing court order or agreement for support, if any,
13 the existence of any of the factors of Section 9120.52 of
14 this Subchapter, and any other pertinent information.

15 (b) Upon the filing of such affidavit, the Attorney
16 General shall immediately investigate the question of non-
17 support and shall take all steps necessary to obtain
18 support for the child. However, upon the advice of the
19 department that a child is being considered for adoption,
20 the Attorney General shall delay his investigation and
21 other action with respect to the case until advised that
22 the adoption is no longer a consideration.

23 (c) The grant of aid to the applicant shall not be
24 delayed or be contingent upon investigation by the Attorney
25 General except as provided in Subsection (d) of this Sec-
26 tion.

27 (d) The Attorney General shall investigate complaints
28 of the department of continued absence of a parent of a
29 child or children who qualifies for assistance under the
30 laws providing such assistance for underage dependent
31 children.

1 (e) The Attorney General shall prepare and file a
2 complaint in the name of the department and prosecute such
3 proceedings whenever his investigation shows such prosecu-
4 tion is warranted. The proceedings shall be governed by
5 the Rules of Civil Procedure.

6 Section 9120.55. Judgments and proceeds. Upon final
7 hearing, judgment for the department shall include all
8 sums expended during the pendency of the action. When the
9 department recovers judgments it may enforce, compromise or
10 settle the judgments with the consent of the Attorney
11 General in any way considered to be in the public interest.
12 Any proceeds of judgments or settlements shall be deposited
13 in the General Fund.

14 Section 9120.56. Child Support Enforcement for the
15 non-public assistance. (a) Upon application, the depart-
16 ment shall make services relating to the establishment of
17 paternity and in enforcement of child obligations described
18 in this Subchapter available to persons not receiving aid
19 to dependent children.

20 (b) The department may require payment of an applica-
21 tion fee for such services and the deductions for cost in
22 excess of such fee from amounts collected on behalf of such
23 persons.

24 (c) The Office of the Attorney General shall represent
25 the non-recipient spouse or child in the same manner as
26 recipients except that all complaints shall be filed in the
27 name of the parent or minor child.

1 Section 9120.57. Duty of agencies to cooperate. (a)

2 All agencies, departments, bureaus and divisions shall
3 cooperate in the location of absent parents who are not
4 fulfilling their obligation to support their children,
5 which children are receiving public aid and assistance
6 administered through the department and shall, on request,
7 supply the department or the Attorney General with all
8 information on hand relative to the location, income and
9 property of such absent parents, notwithstanding any other
10 provision of law making the information confidential. The
11 department or the Attorney General shall use such informa-
12 tion only for the purpose of enforcing the support liability
13 of such absent parents and neither shall use the information
14 nor disclose it for any other purpose.

15 (b) Nothing in this Section shall be construed to
16 compel the disclosure of information relating to an absent
17 parent who is a recipient of aid under a public assistance
18 program for which Federal aid is paid to this territory, if
19 such information is required to be kept confidential by
20 the Federal law or regulations relating to such program.

21 Section 9120.58. If requested, an officer of any
22 corporation, partnership or any other employer doing
23 business in Guam shall furnish to a representative of the
24 department or the Attorney General concerning the last known
25 address, social security number, wages, salaries, earnings
26 or other income of any person legally responsible for some-
27 one who is receiving aid under public assistance programs.
28 of the department.

1 Section 9120.59. The department shall cooperate with
2 the Department of Administration and the Superior Court of
3 Guam in the collection, accounting for and disbursement of
4 funds paid pursuant to any order of support issued by the
5 Superior Court or any other state having jurisdiction when
6 such order affects the department, a welfare recipient or
7 a person receiving assistance pursuant to the provisions of
8 this Subchapter.

9 (b) The department shall inform the absent parent in
10 any case in which a required payment has not been paid with-
11 in two (2) weeks after it was due and shall assist in
12 securing voluntary compliance and such orders or in prepara-
13 tion in submission of petitions for a violation of the
14 support order.

15 (c) The department shall require that a person
16 applying for child support enforcement services provide his
17 or her name, address and social security number and disclose
18 whether he or she is in receipt of aid to dependent children;
19 provided, however, that a social security number may be
20 required only where permitted under Federal law.

21 (d) If any money is paid into the department pursuant
22 to an order of support where the petitioner is not a
23 recipient of public assistance, the payment into such
24 department shall be for all purposes the property of the
25 person for whom such money is paid.

26 (e) With respect to any funds paid to the department,
27 pursuant to an order of support, which have remained un-
28 claimed for not less than two (2) years after diligent
29 effort to locate the person entitled to such funds, the

1 Superior Court may enter an order decreeing:

2 (1) that the funds be returned to the person
3 who paid the funds pursuant to the order of support, or

4 (2) that the funds be deposited with the
5 Treasurer of Guam in an interest bearing account for
6 a period of five (5) years at which time, if still un-
7 claimed, the funds shall revert to the government of
8 Guam.

9 (f) If a claimant proves to the satisfaction of the
10 Superior Court within five (5) years after the deposit of
11 funds under paragraph (2) of subdivision (e) of this Section
12 is just and legal claim to any part of the funds, the court
13 may require that repayment shall be made to the claimant
14 as provided by order of the court. The clerk of the court
15 shall issue a certificate under the official seal of the
16 court embodying the terms and provisions of the order and
17 transmit the certificate to the Office of the Treasurer
18 with whom the funds were deposited.

19 (g) The department shall ascertain the ability of an
20 absent parent to support or contribute to the support of
21 his or her dependents, in accordance with the child support
22 formula.

23 Section 9120.60. The department shall operate a
24 parent locator service for the location of any parent who
25 has abandoned or deserted any child, irrespective of whether
26 such child is or is not receiving aid to families with
27 dependent children. The records of such service shall con-
28 tain as far as is knowns:

- 1 (a) the full and true name of each parent toget-
2 her with any known alias and last known address;
3 (b) date and place of birth;
4 (c) social security number;
5 (d) employment history;
6 (e) military records, if any;
7 (f) police records, if any; and
8 (g) whether a proceeding has been instituted
9 against such parent to enforce the laws respecting the
10 desertion, abandonment and support of his or her
11 children and a statement as to the current status and
12 result of any such proceeding and any further informa-
13 tion that may be of assistance in locating such
14 persons."

15 Section 2. Section 1515 of the Code of Civil Procedure is
16 amended to read:

17 "Section 1515. State Information Agency. The Depart-
18 ment of Public Health and Social Services is designated as
19 the State Information Agency under this law, and it shall
20 be its duty:

21 (1) to compile a list of the courts and their
22 addresses in this state having jurisdiction under this
23 Act and transmit the same to the State Information
24 Agency of every other state which has adopted this or
25 a substantially similar act.

26 (2) to maintain a register of such lists
27 received from other states and to transmit copies
28 thereof as soon as possible after receipt to every
29 court in this state having jurisdiction under this
30 Act."

1 Section 3. Section 143.1 is added to the Civil Code to
2 read:

3 "Section 143.1. (a) When a person is ordered by a
4 court of record to pay for the support of his or her children
5 under the age of eighteen, the court, at the time an order
6 of support is made, upon showing of good cause, or at any
7 time thereafter, may order his or her employer, former
8 employer, the auditor, comptroller, or disbursing officer
9 of any pension fund, of the territory of Guam or the United
10 States to deduct from all monies due or payable to such
11 person, the amount of which he or she is entitled based
12 upon remuneration for employment, past or present, such
13 amount as the court may find to be necessary to comply with
14 its order for the support of his or her children under the
15 age of eighteen. Any order pursuant to this Section shall
16 be served upon such person's employer, former employer, the
17 auditor, comptroller, or disbursing officer of any pension
18 fund of the territory of Guam, provided that such person
19 shall be given notice of such determination if such person
20 pays all arrearages within such fifteen (15) day period,
21 such order and determination shall not be served and no
22 deductions shall be required by reason of such determination,
23 but such payment shall not affect or otherwise limit any
24 determination made as a result of any subsequent delin-
25 quencies. Such employer, former employer, the auditor,
26 comptroller, or disbursing officer of any pension fund, the
27 territory of Guam or the United States shall deduct the
28 amount as ordered from the monies due or payable and forward
29 it monthly as directed in the order."