



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

DEC 11 1997

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

Received by
Legislative Secretary

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	11:34am
Date	12.11.97

Dear Speaker Unpingco:

Enclosed please find a copy of Substitute Bill No. 355 (COR), "AN ACT TO AMEND, REPEAL AND REENACT, AND ADD SECTIONS TO 5 GCA, TO AMEND AND ADD A SECTION TO 7 GCA, TO ADD A SECTION TO 10 GCA, TO AMEND AND REPEAL AND REENACT SECTIONS IN 16 GCA, AND TO AMEND A SECTION IN 19 GCA, MODIFYING EXISTING CHILD SUPPORT LAWS; TO ENACT NEW PROVISIONS MANDATED BY FEDERAL WELFARE REFORM ACT FOR REPORTING NEW EMPLOYEE HIRES, ESTABLISHING A NEW HIRE DIRECTORY DATABASE IN THE DEPARTMENT OF LAW, AND FOR SUSPENDING OR REFUSING TO ISSUE VARIOUS LICENSES TO NONSUPPORTING PARENTS; PROVIDING A TWO-YEAR TRIAL PERIOD FOR CERTAIN PROVISIONS, AND CREATING OTHER NEW PROVISIONS, ALL RELATIVE TO CHILD SUPPORT ENFORCEMENT", which I have signed into law today as **Public Law No. 24-116**.

This legislation is essentially the same as that transmitted to the Legislature by the request of the Governor. The federal government requires the changes in current law contained in this legislation as a condition of obtaining federal grant money to conduct the child support enforcement program within the Office of the Attorney General, Department of Law.

It is noted that the Legislature added a "sunset" provision, requiring the legislation to "expire" at the end of a 2-year trial period.

Very truly yours,

Carl T. C. Gutierrez
Governor of Guam

00576

Attachment

cc: The Honorable Joanne M. S. Brown
Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 12-11-97
Time: 10:14
Rec'd by:
Print Name: Charlotte Brown

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

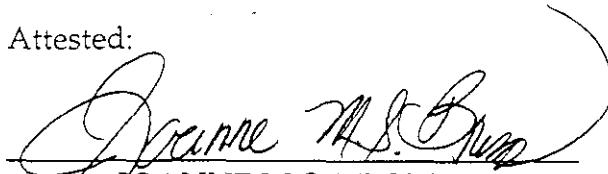
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No.355 (COR), "AN ACT TO AMEND, REPEAL AND REENACT, AND ADD SECTIONS TO 5 GCA, TO AMEND AND ADD A SECTION TO 7 GCA, TO ADD A SECTION TO 10 GCA, TO AMEND AND REPEAL AND REENACT SECTIONS IN 16 GCA, AND TO AMEND A SECTION IN 19 GCA, MODIFYING EXISTING CHILD SUPPORT LAWS; TO ENACT NEW PROVISIONS MANDATED BY FEDERAL WELFARE REFORM ACT FOR REPORTING NEW EMPLOYEE HIRES, ESTABLISHING A NEW HIRE DIRECTORY DATABASE IN THE DEPARTMENT OF LAW, AND FOR SUSPENDING OR REFUSING TO ISSUE VARIOUS LICENSES TO NONSUPPORTING PARENTS; PROVIDING A TWO-YEAR TRIAL PERIOD FOR CERTAIN PROVISIONS, AND CREATING OTHER NEW PROVISIONS, ALL RELATIVE TO CHILD SUPPORT ENFORCEMENT," was on the 21st day of November, 1997, duly and regularly passed.



ANTHONY C. BLAZ
Acting Speaker

Attested:



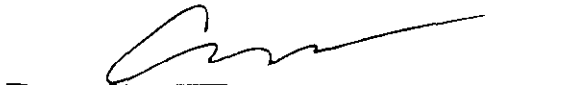
JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by the Governor this 3rd day of December, 1997, at
8:45 o'clock 9 .M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 12-11-97

Public Law No. 24-116

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

Bill No. 355 (COR)

Substituted by Committee on Judiciary,
Public Safety and Consumer Protection
and as amended on the Floor.

Introduced by:

Committee on Rules,
Government Reform and
Federal Affairs

by request of the Governor in
accordance with the Organic
Act of Guam.

Mark Forbes
T. C. Ada
F. B. Aguon, Jr.
E. Barrett-Anderson
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
L. F. Kasperbauer
A. C. Lamorena, V
C. A. Leon Guerrero
L. Leon Guerrero
J. C. Salas
A. L.G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO AMEND, REPEAL AND REENACT,
AND ADD SECTIONS TO 5 GCA, TO AMEND

AND ADD A SECTION TO 7 GCA, TO ADD A SECTION TO 10 GCA, TO AMEND AND REPEAL AND REENACT SECTIONS IN 16 GCA, AND TO AMEND A SECTION IN 19 GCA, MODIFYING EXISTING CHILD SUPPORT LAWS; TO ENACT NEW PROVISIONS MANDATED BY FEDERAL WELFARE REFORM ACT FOR REPORTING NEW EMPLOYEE HIRES, ESTABLISHING A NEW HIRE DIRECTORY DATABASE IN THE DEPARTMENT OF LAW, AND FOR SUSPENDING OR REFUSING TO ISSUE VARIOUS LICENSES TO NONSUPPORTING PARENTS; PROVIDING A TWO-YEAR TRIAL PERIOD FOR CERTAIN PROVISIONS, AND CREATING OTHER NEW PROVISIONS, ALL RELATIVE TO CHILD SUPPORT ENFORCEMENT.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. A new Article 2 is hereby added to Chapter 34 of Title 5 of the
3 Guam Code Annotated to read as follows:

4 "ARTICLE 2

5 ACTION AGAINST LICENSES FOR FAILURE
6 TO PAY CHILD SUPPORT.

7 Section 34201. Purposes. The Guam Legislature finds and
8 declares that child support is a basic legal right of Guam's parents and
9 children, that mothers and fathers have a legal obligation to provide
10 financial support for their children and that child support payments can
11 have a substantial impact on child poverty and local welfare
12 expenditures. It is therefore the Legislature's intent to encourage
13 payment of child support to decrease overall costs to the Guam's
14 taxpayers while increasing the amount of financial support collected for

1 Guam's children.

2 **Section 34202. Definitions.** As used in this Article:

3 (a) **'Administrative hearing'** means a hearing conducted in
4 accordance with the Administrative Adjudication Law, 5 GCA §§9100-
5 9241.

6 (b) **'Compliance with an order of support'** means the total of a
7 non-custodial parent's overdue and unpaid court ordered current child
8 support payments for which no payment has been ordered thereon, or
9 overdue and unpaid court ordered payments on an arrearage, is not
10 greater than three (3) months accrual from the effective date of this Act
11 or the date of the order pursuant to which payments were to be made,
12 whichever is later.

13 (c) **'Court order of support'** means any judgment or order for
14 the support of dependent children, or for payments on an arrearage
15 arising out of failure to comply with such judgment or order, issued by
16 any court of Guam, another territory, or a state, including an order in a
17 final decree of divorce or judgment or order issued in accordance with
18 an administrative procedure established by state or local law that affords
19 substantial due process and is subject to judicial review.

20 (d) **'Department'** means the Department of Law, unless
21 otherwise expressly provided or unless the context clearly requires
22 otherwise.

23 (e) **'Hearing officer'** means a hearing officer within the meaning
24 of the Administrative Adjudication Law, 5 GCA §§9100-9241.

25 (f) **'Licensing body'** means any board, commission,

1 department, division, bureau or officer of the Island of Guam authorized
2 by law to grant, issue, renew, condition, limit, suspend or revoke an
3 authority, license, privilege or right to hunt, fish, operate a motor vehicle
4 or engage in a business occupation, profession or industry.

5 (g) **'Non-compliance with an order of support'** means the total
6 of a non-custodial parent's overdue and unpaid court ordered current
7 child support payments for which no payment has been ordered
8 thereon, or overdue and unpaid court ordered payments on an
9 arrearage, is greater than three (3) months accrual from the effective date
10 of this Act or the date of the order pursuant to which payments were to
11 be made, whichever is later.

12 (h) **'Non-custodial parent'** means any person who is responsible
13 for the support of a child, and who is absent from the household
14 whether the person's location is known or unknown.

15 **Section 34203. Notice of Proposed Action.** (a) If a non-custodial
16 parent is in non-compliance with a court order of support, the
17 Department may serve the non-custodial parent with a notice of
18 proposed action indicating its intention to certify to a licensing body that
19 has issued a license to him or her, that the non-custodial parent is in
20 non-compliance with a court order of support.

21 (b) The notice of proposed action shall inform the non-custodial
22 parent that the Department will certify the non-custodial parent's non-
23 compliance to the licensing body unless, within 20 days of service of the
24 notice of proposed action, the non-custodial parent undertakes one of
25 the following actions:

- 1 (1) Files a petition for an administrative hearing, or
2 (2) Files with the court a motion to establish payments on an
3 arrearage for which no payments have been ordered, a
4 motion to modify an order for payments on an arrearage so
5 as to encompass arrears for which no payment had been
6 theretofore ordered, or a motion to modify an existing order
7 for payments on the arrearage; provided, payment on arrears
8 has not been established or modified in the previous two (2)
9 years, or
10 (3) Comes into compliance with the court order of support, and
11 is issued written confirmation of compliance.

12 (c) The notice of proposed action shall inform the non-custodial
13 parent of how the non-custodial parent can obtain compliance with the
14 court order of support.

15 (d) Service of the notice of proposed action must be made by
16 certified mail, return receipt requested, or as provided by the Guam
17 Rules of Civil Procedure.

18 **Section 34204. Stay of Action.** (a) If the non-custodial parent
19 petitions for an administrative hearing within twenty (20) days of
20 service of the notice of proposed action, the department shall stay action
21 to certify the non-custodial parent to any licensing body for non-
22 compliance with a court order of support, until thirty (30) days after the
23 Department mails a decision after hearing that finds the absent parent is
24 in non-compliance with the order of support.

25 (b) If payment on arrears has not been established or modified

1 in the previous two (2) years, the Department shall stay action to certify
2 a non-custodial parent to a licensing body for non-compliance with a
3 court order of support for ninety (90) days if the non-custodial parent
4 files with the court and serves on the Department, within twenty (20)
5 days of the date the notice of proposed action is served on the non-
6 custodial parent, a motion to:

7 (1) Establish payments on an arrearage for which no payments
8 have been ordered; or

9 (2) Modify an order for payments on an arrearage so as to
10 encompass arrears for which no payment has theretofore
11 been ordered, or to modify an existing order for payments on
12 the arrearage.

13 (c) If non-custodial parent files appeal of the hearing officer's
14 decision under §34208 of this chapter in accordance with the
15 Administrative Adjudication Law, 5 GCA §§9100-9241, the Department
16 shall stay action to certify the non-custodial parent to a licensing body
17 for non-compliance with a court order of support until the court renders
18 its decision.

19 **Section 34205. Petition for Administrative Hearing.** (a) A non-
20 custodial parent may file a petition for an administrative hearing after
21 being served the notice of proposed action.

22 (b) Upon receipt of the petition for hearing the department
23 acquires jurisdiction of the non-custodial parent for purposes of
24 adjudication of the non-custodial parent's petition for hearing under the
25 Administrative Adjudication Law 5 GCA §§9100-9241.

1 **Section 34206. Hearing.** (a) An Administrative Hearing Officer
2 shall conduct a hearing petitioned for by the non-custodial parent
3 pursuant to the Administrative Adjudication Law 5 GCA §§9100-9241.
4 Issues that may be decided at the hearing shall be limited to whether:

- 5 (1) The non-custodial parent is required to pay child support
6 under a court order of support;
- 7 (2) The non-custodial parent is in compliance with a court order
8 of support;
- 9 (3) Payment on arrears has been established or modified in the
10 two years previous to the service of the notice of proposed
11 action;
- 12 (4) The non-custodial parent has been served with more than
13 two (2) notices of proposed action in the past five (5) years.

14 **Section 34207. Decision After Hearing.** (a) The Hearing Officer
15 shall issue a decision after hearing without undue delay. The decision
16 must be based on the hearing record only.

17 (b) The Hearing Officer shall find that the non-custodial parent
18 is in compliance with an order of support only if the non-custodial
19 parent is in compliance with the court order of support as of the date of
20 the hearing.

21 (c) The Department shall send a copy of the decision to the non-
22 custodial parent by regular mail at the non-custodial parent's most
23 recent address of record.

24 (d) The decision must inform the non-custodial parent of the
25 non-custodial parent's right to appeal in accordance with the

1 Administrative Procedure Act, 5 GCA §§9100-9241.

2 **Section 34208. Judicial Review.** A non-custodial parent may
3 appeal in accordance with the Administrative Adjudication Law, 5 GCA
4 §§9100-9241, the Hearing Officer's decision with respect to whether the
5 non-custodial parent is obligated under a court order of support to pay
6 child support, whether he is in compliance with such an order, whether
7 payments on arrears were established or modified in the two (2) years
8 previous to the service of the notice of action, or whether the non-
9 custodial parent has been served with more than two (2) notices of
10 proposed action in the past five (5) years.

11 **Section 34209. Certification to Licensing Body.** (a) The
12 Department shall certify that a non-custodial parent is in non-
13 compliance with a court order of support, and file that certification with
14 a licensing body that has issued the non-custodial parent a license if:

15 (1) The non-custodial parent has been served with a notice of
16 proposed action, the non-custodial parent has not requested
17 a hearing or filed a motion to establish or modify payment
18 on the arrearage within twenty (20) days of the date of the
19 notice of proposed action was served on him, and the non-
20 custodial parent is in non-compliance at the expiration of the
21 twenty (20) days time period.

22 (2) The Department issues a decision after hearing that the non-
23 custodial parent is in non-compliance with a court order of
24 support, and the non-custodial parent has not appealed
25 within thirty (30) days of the date the decision is mailed to

1 the non-custodial parent;

2 (3) The court finds on appeal that the obligor is non-compliance
3 with a court order of support; or

4 (4) A motion to establish or modify payment on arrears has been
5 filed, but it has not been decided within ninety (90) days of
6 the date of the filing of the motion, payment on arrears has
7 been established or modified in the previous two (2) years,
8 or the motion to modify payment on arrears has been
9 denied.

10 (b) The Department shall send by regular mail a copy of the
11 certification issued under (a) of this section to the non-custodial parent
12 at the non-custodial parent's most recent address of record.

13 **Section 34210 Compliance; How Obtained.** An non-custodial
14 parent may come into compliance by paying off the arrearage, or by
15 obtaining an order establishing periodic payment on the arrears for
16 which no payment has been ordered thereon, or by obtaining an order
17 modifying an existing order for payments on an arrearage to encompass
18 arrears for which no payment has been heretofore ordered thereon;
19 provided if the non-custodial parent has been served with more than
20 two (2) notices of proposed action in the past five (5) years, compliance
21 may be obtained only by payment of all overdue and unpaid payments
22 that have accrued since the effective date of this Act. If the non-
23 custodial parent's non-compliance is failure to make court ordered
24 payments on an arrearage, the non-custodial parent may come into
25 compliance by obtaining an order modifying the existing order for

1 payments on the arrearage, provided if the non-custodial parent has
2 been served with more than two (2) notices of proposed action in the
3 past five (5) years, compliance may be obtained only by payment of all
4 overdue and unpaid payments that have accrued since the effective date
5 of this Act.

6 **Section 34211. Written Confirmation of Compliance.** If a non-
7 custodial parent who is served with a notice of proposed action or is
8 certified to a licensing body subsequently comes into compliance with a
9 court order of support, the Department shall provide the non-custodial
10 parent and the licensing bodies with written confirmation that the non-
11 custodial parent is in compliance with this order.

12 **Section 34212. Exchange of Information.** Within six (6) months of
13 the effective date of this Act, all licensing bodies shall provide, and
14 update quarterly, the Department with information, concerning
15 applicants for licensure and current license holders, on magnetic tape or
16 other machine readable form, if available. Such information shall
17 include the license holder or applicant's name, address of record, federal
18 employer identification number or social security number, type of
19 license, effective date of license or renewal, expiration date of license,
20 and active or inactive status.

21 **Section 34213. Suspension, Non-issuance and Non-renewal of**
22 **Licenses.** A licensing body shall suspend the license of a non-custodial
23 parent who has been certified as being in non-compliance with a court
24 order of support, and may not issue or renew the license of a non-
25 custodial parent who has been certified as being in non-compliance with

1 a court order of support or payment agreement, until the non-custodial
2 parent or the Department provides the licensing body with written
3 confirmation from the Department that the non-custodial parent is in
4 compliance with the court order.

5 **Section 34214. Notice from Licensing Body.** A licensing body
6 shall notify a non-custodial parent certified by the Department to be in
7 non-compliance, without undue delay, that the non-custodial parent's
8 application for issuance or renewal of a license will not be granted or
9 that the non-custodial parent's license has been suspended because the
10 non-custodial parent's name has been certified by the Department as
11 being in non-compliance with a court order of support. A notice of
12 suspension must specify the effective date of the suspension, and that
13 the suspension will continue in effect, or the license will not be issued or
14 renewed until the non-custodial parent provides the licensing body with
15 the Department's written confirmation that the non-custodial parent is
16 in compliance with the court order of support.

17 **Section 34215. Subsequent Re-issuance, Renewal or Other**
18 **Extension of License.** After receipt of written confirmation of
19 compliance, a licensing body may reissue, renew, or otherwise extend a
20 license against which action had been taken for non-compliance with an
21 order for support. The re-issuance, renewal, or other extension of the
22 license after receipt of written confirmation of compliance shall occur
23 pursuant to the requirements of the licensing body, except that the
24 licensing body may waive any applicable requirement for re-issuance,
25 renewal or other extension if it determines that the imposition of that

1 requirement places an undue burden on the non-custodial parent and
2 that waiver of that requirement is consistent with the public interest.

3 **Section 34216. Claim of Special Need.** An non-custodial parent
4 whose vehicle operator's license is suspended for non-compliance with
5 a court order of support may request the Department to issue a written
6 statement that permits the Director of the Department of Revenue and
7 Taxation to issue a temporary license valid for a period not to exceed
8 one hundred twenty (120) days. The Department may grant such
9 requests only upon a showing of medical need to obtain a temporary
10 license and only if the non-custodial parent demonstrates his or her
11 intention to come into compliance with the court order of support.

12 **Section 34217. Assistance to Unrepresented Persons.** The
13 Hearings Division, Superior Court of Guam, shall make available to non-
14 custodial parents who are not represented by an attorney, forms which
15 would enable such non-custodial parents to make handwritten
16 applications for reduction of their arrearages to judgment and for the
17 establishment or modification of orders requiring payments on
18 arrearages."

19 **Section 2.** Section 3101(a) of Title 16 of the Guam Code Annotated
20 hereby is repealed and re-enacted to read:

21 "(a) Unless expressly exempted under this Title, a person shall
22 not drive a motor vehicle upon a highway without having in his
23 immediate possession a valid operator's or chauffeur's license issued
24 under this Title. An operator's license authorizes the licensee to drive as
25 an operator only. A chauffeur's license authorizes the licensee to drive

1 as an operator or as a chauffeur.”

2 **Section 3.** A new Paragraph (6) is hereby added to §3101(h) of Title 16
3 of the Guam Code Annotated to read as follows:

4 “(6) Who has been certified by the Department of Law as being in
5 non-compliance with a court order of support, unless a confirmation of
6 compliance provided by the Department of Law is received by the
7 Director of Revenue and Taxation.”

8 **Section 4.** New Subsections (m) and (n) are hereby added to Section
9 3111 of Title 16 of the Guam Code Annotated to read as follows:

10 “(m) The Director of Revenue and Taxation shall suspend the
11 privilege of any person to operate a motor vehicle upon a highway upon
12 receipt of a certification from the Department of Law that the person is
13 in non-compliance with a court order of support, such suspension to
14 remain in effect until a confirmation of compliance provided by the
15 Department of Law is received.

16 (n) Upon being presented with a statement issued by the
17 Department of Law and at the request of a non-custodial parent whose
18 operator's license has been suspended for non-compliance with a court
19 order of support under (m) of this section, the Director of Revenue and
20 Taxation may issue the non-custodial parent a temporary operator's
21 license valid for a period not to exceed one hundred twenty (120) days.”

22 **Section 5.** A new §63130 is hereby added to Title 5 of the Guam Code
23 Annotated to read as follows:

24 “**Section 63130. Nonpayment of Child Support.** The Director of
25 Agriculture shall not issue or re-issue any annual hunting or fishing

1 license provided under this Article or regulations adopted under this
2 Article to any person upon receipt of a certification from the Department
3 of Law that the person is in non-compliance with a court order of
4 support, and shall suspend any such license in effect at the time of
5 receipt of such certification, with such suspension to remain in effect
6 until a confirmation of compliance is received from the Department of
7 Law.”

8 **Section 6.** A new Subsection (j) is hereby added to §34102 of Title 7 of
9 the Guam Code Annotated to read as follows:

10 “(j) In any contempt action involving support, if the court finds
11 that a contempt occurred, the court may order the suspension of a motor
12 vehicle operator’s license, a professional or occupational license, or
13 recreational license, or order denial of an application therefor, until the
14 contemnor purges his contempt in such manner as the court directs.”

15 **Section 7.** Section 34105 of Title 5 of the Guam Code Annotated is
16 hereby amended to read as follows:

17 “Section 34105 (a) The Legislature has determined there is public
18 policy in favor of establishing paternity; of having parents support their
19 children; and in having fair and equitable support orders. Therefore,
20 whether or not the minor children have been or are recipients of public
21 assistance, the Department, acting in the best interests of the children
22 and the Island of Guam, may bring an action in its own name or join in
23 an action already in existence against the person or persons responsible
24 for the support of such children:

25 (1) To recover such amounts of back support and any other

1 amounts as may be due and owing under an existing court
2 order, whether owed to the Department or to the custodial
3 parent or other person having custody of the minor child;

4 (2) For a continuing order of support for the benefit of such
5 children;

6 (3) To establish paternity;

7 (4) To move to modify existing orders up or down as the
8 circumstances and equity demand;

9 (5) To obtain orders of wage assignment;

10 (6) To recover amounts for which a parent is legally liable to
11 Guam as a result of public assistance having been granted
12 due to the separation or desertion of the parent from his or
13 her child or children;

14 (7) To recover necessary expenses incurred by or for the mother
15 in connection with the birth of her child, for the funeral
16 expenses if the child has died, for expenses incurred in
17 connection with pregnancy of the mother, except as limited
18 by (b) of this Section; and

19 (8) To recover reimbursement of the cost of support for the child
20 before the commencement of the action, determined by using
21 the appropriate Child Support Guidelines currently in effect,
22 except as limited by (b) of this section.

23 (b) If an action is commenced after the lapse of more than six (6)
24 years from the birth of the child, an amount shall not be awarded for
25 expenses or support under (a)(7)-(8) of this Section that accrued before

1 the date on which the action was commenced unless one (1) or more of
2 the following circumstances exists:

3 (1) Paternity has been acknowledged by the father in writing in
4 accordance with applicable statutes.

5 (2) The non-custodial parent is out of the Island of Guam, was
6 avoiding service of process, or threatened or coerced the
7 custodial parent not to file an action during the six (6) year
8 period. The court may award an amount for expenses or
9 support that accrued before the date the action was
10 commenced if the action was commenced during a period of
11 time equal to the sum of six (6) years and the time the non-
12 custodial parent was out of the Island of Guam, was
13 avoiding service of process, or threatened or coerced the
14 complainant not to bring an action under this Chapter."

15 **Section 8.** Section 34114(a) of Title 5 of the Guam Code Annotated is
16 hereby repealed and re-enacted to read as follows:

17 "(a) Interest shall accrue at the rate of twelve percent (12%) per
18 annum on a non-custodial parent's unpaid balance as of the last day of
19 the previous month. A non-custodial parent's unpaid balance shall be
20 the arrearage shown on the records at the Department of Law, except to
21 the extent monthly unpaid balances may be corrected by the court in the
22 course of reducing arrearages to judgment under 5 GCA §34129.
23 Payments on arrearages shall be applied to interest first, then to
24 principal."

25 **Section 9.** A new §11416 is hereby added to Title 7 of the Guam Code

1 Annotated to read as follows:

2 **"Section 11416. Exception. Where a Party is Evading Service of**
3 **Process.** If after the time a cause of action accrues against a parent for
4 recovery of amounts which the parent is obligated to pay to the
5 government of Guam as a result of public assistance having been
6 granted due to the separation or desertion of the parent from a child or
7 children, that parent is evading service of process, the time that parent
8 evades service of process is not part of the time limited for the
9 commencement of the action."

10 **Section 10.** A new §2209 is hereby added to Title 10 of the Guam Code

11 Annotated to read as follows:

12 **"Section 2209. Separation or Desertion: Liability for Support of**
13 **Family.** (a) In any case of separation or desertion of a parent or parents
14 from a child or children which results in public assistance being granted
15 to that family, the non-custodial parent or parents shall be liable to the
16 government of Guam for an amount equal to the following:

17 (1) The amount specified in an order for the support and
18 maintenance of such family issued by a court of competent
19 jurisdiction; or in the absence of such court order, the
20 amount specified in Paragraph (a) (2).

21 (2) The amount of support which would have been specified in
22 an order for the support and maintenance of the family
23 during the period of separation or desertion , provided that
24 any such amount in excess of the public assistance paid to
25 the family shall be disbursed to the family.

1 (3) The obligation shall be reduced by any amount actually paid
2 by the non-custodial parent directly to the custodian of the
3 child or to a government agency during the period of
4 separation or desertion for the support and maintenance of
5 the family.

6 (b) The amount of the obligation established under Paragraph
7 (a) (2) shall be determined by using the appropriate Child Support
8 Guidelines currently in effect."

9 **Section 11.** A new Article 3 is hereby added to Chapter 34 of Title 5 of
10 the Guam Code Annotated to read as follows:

11 **"ARTICLE 3**

12 **NEW HIRE DIRECTORY.**

13 **Section 34301. Definitions. As used in this Article.**

14 (a) 'Date of hiring' means the earlier of:

- 15 (1) The first day for which an employee is owed compensation
16 by an employer; or
17 (2) The first day that an employee reports to work or performs
18 labor or services for an employer.

19 (b) 'Earnings' means payment owed by an employer for labor or
20 services rendered by an employee.

21 (c) 'Employee' means an individual who performs services for
22 remuneration for another person who has the right to control and direct
23 the individual in the means by which such services are performed.

24 (d) 'Independent Contractor' means a person who performs
25 services for remuneration for another person who does not have the

1 right to control and direct the person in the performance of such service,
2 but is liable in contract to that other person for the results attained
3 through such service.

4 (e) 'Employer' means the person, including placement
5 agencies, temporary employment agencies government entities and
6 labor organizations, for whom any individual performs any service as
7 the employee of such person, except that:

8 (1) If the person for whom the individual performs the services
9 does not have control of the payment of the wages for such
10 services, the term 'employer' means the person having
11 control of the payment of such wages, and

12 (2) In the case of a person paying wages on behalf of a non-
13 resident alien individual, foreign partnership, or foreign
14 corporation, not engaged in trade or business within the
15 United States, the term 'employer' means such person.

16 (f) 'Hiring' means entering into a contract of hire with a person
17 to perform services in exchange for compensation and includes the re-
18 employing or return to work of any previous employee who was laid
19 off, furloughed, separated, granted a leave without pay, or terminated
20 from employment.

21 **Section 34302. New Hire Directory Established.** There is
22 established, within the Department of Law, Family Division, a New Hire
23 Directory for the purpose of receiving information supplied by
24 employers on newly hired or rehired employees.

25 **Section 34303. Duty to Report.** (a) An employer shall report to

1 the Director of New Hires whenever that employer hires or rehires an
2 employee. Employers shall submit reports required under this
3 subsection within twenty (20) calendar days of the date of hiring or
4 rehiring of the employee.

5 (b) An employer is not required to report to the Director of New
6 Hires the hiring of any person who will

- 7 (1) Be employed for less than three (3) months duration;
- 8 (2) Have gross earnings of less than three-hundred dollars
9 (\$300.00) per month;
- 10 (3) Be employed intermittently, such that the employee will be
11 paid for less than three hundred and fifty (350) hours during
12 a continuous six (6) month period.

13 **Section 34304. Penalty.** (a) An employer who:

- 14 (1) Fails to file reports as required by the Department of Law,
15 Family Division and has not previously received a written
16 notice of non-compliance, shall receive written notice of non-
17 compliance.
- 18 (2) Fails to file reports as required by this chapter and has
19 previously received written notice of non-compliance, is
20 subject to a civil penalty of twenty-four dollars (\$24.00) for
21 each intentionally unreported employee, except that the
22 penalty shall be four hundred ninety-nine dollars (\$499.00)
23 for each intentionally unreported employee if the failure to
24 report is the result of a conspiracy between the employer and
25 the employee not to supply the required report or to supply

1 a false or incomplete report.

2 (b) The written notice of non-compliance furnished under (a) of
3 this Section shall request that the employer comply with the reporting
4 requirements of this article, and advise the employer of the penalty for
5 non-compliance.

6 **Section 34305. Means to Report.** (a) Employers may report by
7 delivering, mailing, or tele-faxing a copy of the employee's Federal W-4
8 form or W-9 form or any other document that contains the required
9 information, transmitting the required information by electronic or
10 magnetic means in a compatible format, or by other means authorized
11 by the Director of the Department of Law that will result in timely
12 reporting.

13 (b) If an employer transmits information magnetically or
14 electronically, the employer shall submit the report:

15 (1) Twice a month, and

16 (2) Not less than twelve (12) days or more than sixteen (16) days
17 apart.

18 (c) If an employer makes a report by mail, the date of making
19 the report is the postmark date if the report is mailed in the United
20 States with First Class postage and is addressed as the Director provides.

21 **Section 34306. Information Required to Be Reported.** Reports
22 required under §34303 of this Chapter must contain:

23 (1) The employee's name, address, social security number, and
24 date of birth when available, which can be handwritten or
25 otherwise added to the W-4 form, W-9 form, or other

1 document submitted; and

- 2 (2) The employer's name, address, and federal identification
3 number.

4 **Section 34307. Access to and Disposition of Data.** (a) The
5 Director of New Hires shall destroy information supplied by employers
6 relating to the hiring of employees six (6) months after the information is
7 supplied to it. Data contained in the Directory of New Hires shall be
8 disclosed only to the Family Division in the Office of the Attorney
9 General, and other Guam and Federal agencies as authorized by Federal
10 law.

11 (b) Within three (3) working days after the data information is
12 reported to the Department of Law's Director of New Hires, the
13 Department of Law shall furnish the information to the National
14 Directory of New Hires.

15 (c) The Department of Revenue and Taxation shall furnish
16 quarterly to the Directory of New Hires, who shall in turn furnish to the
17 National Directory of New Hires extracts of the reports required under
18 federal law to be made to the Secretary of Labor concerning the wages
19 and compensation paid to individuals, by such dates, in such format,
20 and containing such information as the United States Secretary of Health
21 and Human Services shall specify in regulation.

22 **Section 34308. Government of Guam to Report Hiring of**
23 **Independent Contractors.** The government of Guam, when acting in
24 the capacity of contractee, shall report the execution of a contract with
25 any person as an independent contractor to the Director of New Hires in

1 the same manner as the hiring of an employee is reported.”

2 **Section 12.** A new §5503(d) is hereby added to Title 19 of the Guam
3 Code Annotated to read as follows:

4 “(d) To hear and decide, unless the Referee’s recommended
5 decision is appealed by any party, whether an employer has committed
6 the violation of failing to report the hiring or rehiring of an employee.”

7 **Section 13. Sunset Provision.** The provisions of Sections 1, 3, 4, 5, 6, 11
8 and 12 of this 1997 Act are enacted for a limited trial period, and unless
9 otherwise extended by the Legislature, shall expire on September 30, 1999.

10 During the trial period the Department of Law shall monitor compliance by
11 employers with reporting requirements, documenting any problems
12 encountered by them, and evaluate the effectiveness of the New Hire
13 Directory program and the licensing sanctions and procedures in enforcing
14 the child support laws. The Governor, based upon the findings and
15 recommendations of the Attorney General, shall submit a report regarding the
16 program along with any requested legislation to the Speaker of the Twenty-
17 Fifth Guam Legislature by August 1, 1999.