



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

AUG 31 2000

The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

| | |
|-------------------------------------|--------------------|
| OFFICE OF THE LEGISLATIVE SECRETARY | |
| ACKNOWLEDGMENT RECEIPT | |
| Received By | <i>[Signature]</i> |
| Time | 3:10 PM |
| Date | 31 Aug 2000 |

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 472 (COR), "AN ACT TO ADD ARTICLES 2 AND 3 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM", which is signed into law as **Public Law No. 25-161**.

This legislation conforms to the draft legislation required by the federal government as a condition of receiving federal grants for child support enforcement and which was submitted by the Executive Branch to i Liheslatura with the veto of Bill No. 449. This legislation corrects the fatal deficiency in vetoed Bill No. 449, by deleting the provision preventing parents who have joint custody from obtaining child support.

Very truly yours,

Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

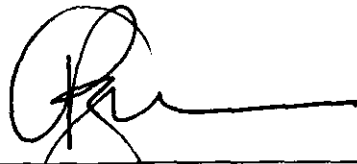
cc: The Honorable Antonio R. Unpingco
Speaker

01071


MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session

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


This is to certify that Substitute Bill No. 472 (COR) "AN ACT TO ADD ARTICLES 2 AND 3 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM," was on the 29th day of August 2000, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker


Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahen Guahan this 29th day of August, 2000,
at 5:55 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: 8-31-00

Public Law No. 25-161

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
2000 (SECOND) Regular Session

Bill No. 472 (COR)

As substituted by the Committee on
Judiciary, Public Safety, Consumer Protection
and Human Resources Development.

Introduced by:

J. C. Salas
L. F. Kasperbauer
K. S. Moylan
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
M. G. Camacho
Mark Forbes
A. C. Lamorena, V
C. A. Leon Guerrero
V. C. Pangelinan
S. A. Sanchez, II
A. R. Unpingco

AN ACT TO ADD ARTICLES 2 AND 3 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that Public Law Number 24-116 provided guidelines for the support of
4 children on Guam. Contained within §13 of the law was a sunset provision
5 calling for certain sections of the legislation to expire on September 30, 1999.
6 Such provisions did in fact expire pursuant to law. In order to secure Federal
7 Funding, *I Liheslaturan Guåhan* intends that the provisions of law become
8 permanent at the recommendation of the Department of Law.

9 **Section 2.** Article 2 is hereby *added* to Chapter 34, Division 3 of Title 5
10 of the Guam Code Annotated to read as follows:

11 **"ARTICLE 2.**

12 **ACTION AGAINST LICENSES FOR FAILURE**

13 **TO PAY CHILD SUPPORT.**

14 **Section 34201. Purposes.** *I Liheslaturan Guåhan* finds and
15 declares that child support is a basic legal right of Guam's parents and
16 children, that mothers and fathers have a legal obligation to provide
17 financial support for their children and that child support payments can
18 have a substantial impact on child poverty and local welfare
19 expenditures. It is therefore the Legislature's intent to encourage
20 payment of child support to decrease overall costs to Guam taxpayers
21 while increasing the amount of financial support collected for Guam's
22 children.

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

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

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

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

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

1 9241.

2 (f) 'Licensing body' means any board, commission,
3 department, division, bureau or officer of the Island of Guam
4 authorized by law to grant, issue, renew, condition, limit, suspend
5 or revoke an authority, license, privilege or right to hunt, fish,
6 operate a motor vehicle or engage in a business occupation,
7 profession or industry.

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

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

18 **Section 34203. Notice of Proposed Action.**

19 (a) *If* a non-custodial parent is in non-compliance with a
20 court order of support, the Department may serve the non-
21 custodial parent with a notice of proposed action indicating its
22 intention to certify to a licensing body that has issued a license to
23 the non-custodial parent, that the non-custodial parent is in non-
24 compliance with a court order of support.

1 (b) The notice of proposed action shall inform the non-
2 custodial parent that the Department will certify the non-custodial
3 parent's non-compliance to the licensing body, *unless*, within
4 twenty (20) days of service of the notice of proposed action, the
5 non-custodial parent undertakes one of the following actions:

6 (1) files a petition for an administrative hearing, *or*

7 (2) files with the court a motion to establish
8 payments on an arrearage for which no payments have been
9 ordered, a motion to modify an order for payments on an
10 arrearage so as to encompass arrears for which no payment
11 had been theretofore ordered, or a motion to modify an
12 existing order for payments on the arrearage; *provided*,
13 payment on arrears has *not* been established or modified in
14 the previous two (2) years; *or*

15 (3) comes into compliance with the court order of
16 support, and is issued written confirmation of compliance.

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

20 (d) Service of the notice of proposed action must be made
21 by personal service or, if unable to locate the non-custodial parent,
22 then by certified mail, return receipt requested.

23 **Section 34204. Stay of Action.**

24 (a) *If* the non-custodial parent petitions for an

1 administrative hearing within twenty (20) days of service of the
2 notice of proposed action, the Department shall stay action to
3 certify the non-custodial parent to any licensing body for non-
4 compliance with a court order of support, until thirty (30) days
5 after the Department serves a decision after hearing that finds the
6 absent parent is in non-compliance with the order of support.

7 (b) *If* payment on arrears has *not* been established or
8 modified in the previous two (2) years, the Department shall stay
9 action to certify a non-custodial parent to a licensing body for non-
10 compliance with a court order of support for ninety (90) days *if* the
11 non-custodial parent files with the court and serves on the
12 Department, within twenty (20) days of the date the notice of
13 proposed action is served on the non-custodial parent, a motion
14 to:

15 (1) establish payments on an arrearage for which no
16 payments have been ordered; *or*

17 (2) modify an order for payments on an arrearage so
18 as to encompass arrears for which no payment has
19 theretofore been ordered, or to modify an existing order for
20 payments on the arrearage.

21 (c) *If* non-custodial parent files appeal of the hearing
22 officer's decision under §34208 of this chapter in accordance with
23 the Administrative Adjudication Law, 5 GCA §§9100-9241, the
24 Department shall stay action to certify the non-custodial parent to
25 a licensing body for non-compliance with a court order of support

1 until the court renders its decision.

2 **Section 34205. Petition for Administrative Hearing.**

3 (a) A non-custodial parent may file a petition for an
4 administrative hearing after being served the notice of proposed
5 action.

6 (b) Upon receipt of the petition for hearing the
7 Department acquires jurisdiction of the non-custodial parent for
8 purposes of adjudication of the non-custodial parent's petition for
9 hearing under the Administrative Adjudication Law 5 GCA
10 §§9100-9241.

11 **Section 34206. Hearing.**

12 (a) An Administrative Hearing Officer shall conduct a
13 hearing petitioned for by the non-custodial parent pursuant to the
14 Administrative Adjudication Law 5 GCA §§9100-9241. Issues that
15 may be decided at the hearing shall be limited to whether:

16 (1) the non-custodial parent is required to pay child
17 support under a court order of support;

18 (2) the non-custodial parent is in compliance with a
19 court order of support;

20 (3) payment on arrears has been established or
21 modified in the two (2) years previous to the service of the
22 notice of proposed action;

23 (4) the non-custodial parent has been served with
24 more than two (2) notices of proposed action in the past five
25 (5) years.

1 **Section 34207. Decision After Hearing.**

2 (a) The Hearing Officer shall issue a decision after hearing
3 without undue delay. The decision must be based on the hearing
4 record only.

5 (b) The Department shall personally serve or send a copy
6 of the decision to the non-custodial parent by certified mail, return
7 receipt requested.

8 (c) The decision must inform the non-custodial parent of
9 the non-custodial parent's right to appeal in accordance with the
10 Administrative Procedure Act, 5 GCA §§9100-9241.

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

21 **Section 34209. Certification to Licensing Body.**

22 (a) The Department shall certify that a non-custodial
23 parent is in non-compliance with a court order of support, and file
24 that certification with a licensing body that has issued the non-
25 custodial parent a license *if*:

1 (1) the non-custodial parent has been served with a
2 notice of proposed action, the non-custodial parent has *not*
3 requested a hearing or filed a motion to establish or modify
4 payment on the arrearage within twenty (20) days of the
5 date of the notice of proposed action was served on the non-
6 custodial parent and the non-custodial parent is in non-
7 compliance at the expiration of the twenty (20) day time
8 period;

9 (2) the Department issues a decision after hearing
10 that the non-custodial parent is in non-compliance with a
11 court order of support, and the non-custodial parent has *not*
12 appealed within thirty (30) days of the date the decision is
13 mailed to the non-custodial parent;

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

16 (4) a motion to establish or modify payment on
17 arrears has been filed, but it has *not* been decided within
18 ninety (90) days of the date of the filing of the motion,
19 payment on arrears has been established or modified in the
20 previous two (2) years, or the motion to modify payment on
21 arrears has been denied.

22 (b) The Department shall send by certified mail a copy of
23 the certification issued under Subsection (a) of this Section to the
24 non-custodial parent.

25 **Section 34210. Compliance; How Obtained.** A non-custodial

1 parent may come into compliance by paying off the arrearage, or by
2 obtaining an order establishing periodic payment on the arrears for
3 which no payment has been ordered thereon, or by obtaining an order
4 modifying an existing order for payments on an arrearage to encompass
5 arrears for which no payment has been heretofore ordered thereon;
6 provided, *if* the non-custodial parent has been served with more than
7 two (2) notices of proposed action in the past five (5) years, compliance
8 may be obtained only by payment of all overdue and unpaid payments
9 that have accrued since the effective date of this Act. *If* the non-
10 custodial parent's non-compliance is failure to make court ordered
11 payments on an arrearage, the non-custodial parent may come into
12 compliance by obtaining an order modifying the existing order for
13 payments on the arrearage; provided, *if* the non-custodial parent has
14 been served with more than two (2) notices of proposed action in the
15 past five (5) years, compliance may be obtained only by payment of all
16 overdue and unpaid payments that have accrued since the effective date
17 of this Act.

18 **Section 34211. Written Confirmation of Compliance.** *If* a non-
19 custodial parent who is served with a notice of proposed action or is
20 certified to a licensing body subsequently comes into compliance with a
21 court order of support, the Department shall provide the non-custodial
22 parent and the licensing bodies with written confirmation that the non-
23 custodial parent is in compliance with this order within twenty-four (24)
24 hours of compliance.

1 **Section 34212. Exchange of Information.** Within six (6)
2 months of the effective date of this Act, all licensing bodies shall
3 provide, and update quarterly, the Department with information,
4 concerning applicants for licensure and current license holders, on
5 magnetic tape or other machine readable form, *if* available. Such
6 information shall include the license holder or applicant's name, address
7 of record, Federal employer identification number or social security
8 number, type of license, effective date of license or renewal, expiration
9 date of license, and active or inactive status.

10 **Section 34213. Suspension, Non-issuance and Non-renewal of**
11 **Licenses.** A licensing body shall suspend the license of a non-custodial
12 parent who has been certified as being in non-compliance with a court
13 order of support, and may *not* issue or renew the license of a non-
14 custodial parent who has been certified as being in non-compliance with
15 a court order of support or payment agreement, until the non-custodial
16 parent or the Department provides the licensing body with written
17 confirmation from the Department or the Superior Court of Guam that
18 the non-custodial parent is in compliance with the court order.

19 **Section 34214. Notice from Licensing Body.** A licensing
20 body shall notify a non-custodial parent certified by the Department to
21 be in non-compliance at least ten (10) days prior to denial or suspension,
22 that the non-custodial parent's application for issuance or renewal of a
23 license will *not* be granted or that the non-custodial parent's license has
24 been suspended because the non-custodial parent's name has been

1 certified by the Department as being in non-compliance with a court
2 order of support. A notice of suspension must specify the effective date
3 of the suspension, and that the suspension will continue in effect, or the
4 license will *not* be issued or renewed until the non-custodial parent
5 provides the licensing body with the Department's written confirmation
6 that the non-custodial parent is in compliance with the court order of
7 support.

8 **Section 34215. Subsequent Re-issuance, Renewal or Other**
9 **Extension of License.** After receipt of written confirmation of
10 compliance, a licensing body shall, within five (5) working days, reissue,
11 renew, or otherwise extend a license against which action had been
12 taken for non-compliance with an order for support. The re-issuance,
13 renewal, or other extension of the license after receipt of written
14 confirmation of compliance shall occur pursuant to the requirements of
15 the licensing body, *except* that the licensing body may waive any
16 applicable requirement for re-issuance, renewal or other extension *if* it
17 determines that the imposition of that requirement places an undue
18 burden on the non-custodial parent and that waiver of that requirement
19 is consistent with the public interest.

20 **Section 34216. Claim of Special Need.** A non-custodial
21 parent whose vehicle operator's license is suspended for non-
22 compliance with a court order of support may request the Department
23 to issue a written statement that permits the Director of the Department
24 of Revenue and Taxation to issue a temporary license valid for a period

1 *not to exceed* one hundred twenty (120) days. The Department may
2 grant such requests only upon a showing of medical need or work
3 requirement to obtain a temporary license and *only if* the non-custodial
4 parent demonstrates that person's intention to come into compliance
5 with the court order of support.

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

13 **Section 3.** Section 3101(h)(6) is hereby *added* to Article 1, Chapter 3 of
14 Title 16 of the Guam Code Annotated to read as follows:

15 "(6) Who has been certified by the Department of Law as being
16 in non-compliance with a court order of support, *unless* a confirmation
17 of compliance from the Department of Law or the Superior Court of
18 Guam is received by the Director of Revenue and Taxation."

19 **Section 4.** Section 3111(m) is hereby *added* to Article 1, Chapter 3 of
20 Title 16 of the Guam Code Annotated to read as follows:

21 "(m) The Director of Revenue and Taxation shall suspend the
22 privilege of any person to operate a motor vehicle upon a highway
23 upon receipt of a certification from the Department of Law that the
24 person is in non-compliance with a court order of support, such

1 suspension to remain in effect until a confirmation of compliance from
2 the Department of Law or the Superior Court of Guam is received.”

3 **Section 5.** Section 3111(n) is hereby *added* to Article 1, Chapter 3 of Title
4 16 of the Guam Code Annotated to read as follows:

5 “(n) At the request of a non-custodial parent whose operator's
6 license has been suspended for non-compliance with a court order of
7 support under Subsection (m) of this Section, the Director of Revenue
8 and Taxation may issue the non-custodial parent a temporary operator's
9 license valid for a period *not to exceed* one hundred twenty (120) days.”

10 **Section 6.** Section 63131 is hereby *added* to Article 1, Chapter 63,
11 Division 6 of Title 5 of the Guam Code Annotated to read as follows:

12 “**Section 63131. Nonpayment of Child Support.** The Director
13 of Agriculture shall *not* issue or re-issue any annual hunting or fishing
14 license provided under this Article or regulations adopted under this
15 Article to any person upon receipt of a certification from the
16 Department of Law that the person is in non-compliance with a court
17 order of support, and shall suspend any such license in effect at the time
18 of receipt of such certification, with such suspension to remain in effect
19 until a confirmation of compliance is received from the Department of
20 Law.”

21 **Section 7.** Section 34102(j) is hereby *added* to Chapter 34, Division 3 of
22 Title 7 of the Guam Code Annotated to read as follows:

23 “(j) In any contempt action involving support, if the court finds
24 that a contempt occurred, the court may order the suspension of a motor

1 vehicle operator's license, a professional or occupational license, or
2 recreational license, or order denial of an application therefor, until the
3 contemnor purges that person's contempt in such manner as the court
4 directs."

5 **Section 8.** Article 3 is hereby *added* to Chapter 34, Division 3 of Title 5
6 of the Guam Code Annotated to read as follows:

7 **"ARTICLE 3.**

8 **NEW HIRE DIRECTORY.**

9 **Section 34301. Definitions.** As used in this Article:

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

11 (1) the first day for which an employee is owed
12 compensation by an employer; *or*

13 (2) the first day that an employee reports to work or
14 performs labor or services for an employer.

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

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

21 (d) 'Independent Contractor' means a person who
22 performs services for remuneration for another person who does
23 not have the right to control and direct the person in the
24 performance of such service, but is liable in contract to that other

1 person for the results attained through such service.

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

6 (1) if the person for whom the individual performs
7 the services does not have control of the payment of the
8 wages for such services, the term 'employer' means the
9 person having control of the payment of such wages, *and*

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

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

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

23 **Section 34303. Duty to Report.**

24 (a) An employer shall report to the Director of New Hires

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

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

7 (1) be employed for less than three (3) months
8 duration;

9 (2) have gross earnings of less than Three-hundred
10 Dollars (\$300.00) per month;

11 (3) be employed intermittently, such that the
12 employee will be paid for less than three hundred and fifty
13 (350) hours during a continuous six (6) month period.

14 **Section 34304. Penalty.**

15 (a) An employer who:

16 (1) fails to file reports as required by the
17 Department of Law, Family Division and has *not* previously
18 received a written notice of non-compliance, shall receive
19 written notice of non-compliance;

20 (2) fails to file reports as required by this Chapter
21 and has previously received written notice of non-
22 compliance, is subject to a civil penalty of Twenty-four
23 Dollars (\$24.00) for each intentionally unreported employee,
24 *except* that the penalty shall be Four Hundred Ninety-nine
25 Dollars (\$499.00) for each intentionally unreported employee

1 *if* the failure to report is the result of a conspiracy between
2 the employer and the employee *not* to supply the required
3 report or to supply a false or incomplete report.

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

8 **Section 34305. Means to Report.**

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

16 (b) *If* an employer transmits information magnetically or
17 electronically, the employer shall submit the report:

18 (1) twice a month, *and*

19 (2) *not less than* twelve (12) days or more than
20 sixteen (16) days apart.

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

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

3 (1) the employee's name, address, social security number,
4 and date of birth when available, which can be handwritten or
5 otherwise added to the W-4 form, W-9 form or other document
6 submitted; *and*

7 (2) the employer's name, address, and federal
8 identification number.

9 **Section 34307. Access to and Disposition of Data.**

10 (a) The Director of New Hires shall destroy information
11 supplied by employers relating to the hiring of employees six (6)
12 months after the information is supplied to it. Data contained in
13 the Directory of New Hires shall be disclosed only to the Family
14 Division in the Office of the Attorney General, and other Guam
15 and Federal agencies as authorized by Federal law.

16 (b) Within three (3) working days after the data
17 information is reported to the Department of Law's Director of
18 New Hires, the Department of Law shall furnish the information
19 to the National Directory of New Hires.

20 (c) The Department of Revenue and Taxation shall
21 furnish quarterly to the Director of New Hires, who shall in turn
22 furnish to the National Directory of New Hires extracts of the
23 reports required under Federal law to be made to the Secretary of
24 Labor concerning the wages and compensation paid to
25 individuals, by such dates, in such format, and containing such

1 information as the United States Secretary of Health and Human
2 Services shall specify in regulation.

3 **Section 34308. Government of Guam to Report Hiring of**
4 **Independent Contractors.** The government of Guam, when acting in
5 the capacity of contractee, shall report the execution of a contract with
6 any person as an independent contractor to the Director of New Hires in
7 the same manner as the hiring of an employee is reported."

8 **Section 9.** Section 5503(d) is hereby *added* to Chapter 5A, Division
9 1 of Title 19 of the Guam Code Annotated to read as follows:

10 "(d) To hear and decide, *unless* the Referee's recommended
11 decision is appealed by any party, whether an employer has committed
12 the violation of failing to report the hiring or rehiring of an employee."

13 **Section 10. Severability.** *If* any provision of this Law or part
14 contained in any Section, or its application to any person or circumstance is
15 found to be invalid or contrary to law, such invalidity shall *not* affect other
16 provisions or applications of this Law which can be given effect without the
17 invalid provisions or application, and to this end the provisions of this Law
18 are severable.



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910


August 29, 2000

The Honorable Carl T.C. Gutierrez
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

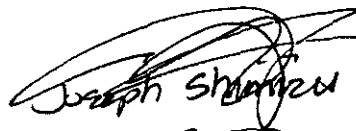
Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Substitute Bill Nos. 470(COR) and 472(COR) which were passed by *I Mina'Bente Singko Na Liheslaturan Guåhan* on August 29, 2000.

Sincerely,


JOANNE M.S. BROWN
Senator and Legislative Secretary

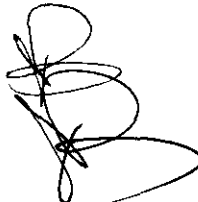
Enclosure (2)


Joseph Shantz
8.29.00
1755 hrs

IX TRANSMISSION CHECKLIST TO I MAGA'LAHEN GUAHAN
(Included in File w/ All Bills Transmitted)

BILL NO. 472

- EXHIBITS ATTACHED Name
- CONFIRM NUMBER OF PAGES 20
- CAPTION ON CERTIFICATION MATCHES BILL CAPTION w
- ENGROSSED SIGN""*"" REMOVED FROM BILL yes
- 15 SENATORS IN SPONSORSHIP OR CONFIRM OTHERWISE w
- CERTIFICATION SIGNED BY SPEAKER & LEGIS. SECRETARY
- EMERGENCY DECLARATION, if any Name

Confirmed By: 
FINAL REVIEW:

Dated: 8/29/00
Dated: 8/29/00

- HAND CARRY BILL IN BLUEBACK (ORIGINAL & COPY)
TO THE GOVERNOR. (DANNY, ROBERT OR OTHERS)
- ACKNOWLEDGED COPY W/ ORIGINAL BLUEBACK
PLACED ON CLERK'S DESK. (Same copy given to Susan)
- FILED by: Danny, Robert or others

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 472 (COR) "AN ACT TO ADD ARTICLES 2 AND 3 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM," was on the 29th day of August 2000, duly and regularly passed.

ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

.....
This Act was received by *I Maga'lahaen Guahan* this _____ day of _____, 2000,
at _____ o'clock _____M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 08-29-00

Time: 1725

Rec'd by: _____

Print Name: Alonzo

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
2000 (SECOND) Regular Session

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

This is to certify that Substitute Bill No. 472 (COR) "AN ACT TO ADD ARTICLES 2 AND 3 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM," was on the 29th day of August 2000, duly and regularly passed.

ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guahan* this _____ day of _____, 2000,
at _____ o'clock _____.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
2000 (SECOND) Regular Session

Bill No. 472 (COR)

As substituted by the Committee on
Judiciary, Public Safety, Consumer Protection
and Human Resources Development.

Introduced by:

J. C. Salas
L. F. Kasperbauer
K. S. Moylan
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
M. G. Camacho
Mark Forbes
A. C. Lamorena, V
C. A. Leon Guerrero
V. C. Pangelinan
S. A. Sanchez, II
A. R. Unpingco

AN ACT TO ADD ARTICLES 2 AND 3 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM.

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

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

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

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

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

1 9241.

2 (f) 'Licensing body' means any board, commission,
3 department, division, bureau or officer of the Island of Guam
4 authorized by law to grant, issue, renew, condition, limit, suspend
5 or revoke an authority, license, privilege or right to hunt, fish,
6 operate a motor vehicle or engage in a business occupation,
7 profession or industry.

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

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

18 **Section 34203. Notice of Proposed Action.**

19 (a) *If* a non-custodial parent is in non-compliance with a
20 court order of support, the Department may serve the non-
21 custodial parent with a notice of proposed action indicating its
22 intention to certify to a licensing body that has issued a license to
23 the non-custodial parent, that the non-custodial parent is in non-
24 compliance with a court order of support.

1 (b) The notice of proposed action shall inform the non-
2 custodial parent that the Department will certify the non-custodial
3 parent's non-compliance to the licensing body, *unless*, within
4 twenty (20) days of service of the notice of proposed action, the
5 non-custodial parent undertakes one of the following actions:

6 (1) files a petition for an administrative hearing, *or*

7 (2) files with the court a motion to establish
8 payments on an arrearage for which no payments have been
9 ordered, a motion to modify an order for payments on an
10 arrearage so as to encompass arrears for which no payment
11 had been theretofore ordered, or a motion to modify an
12 existing order for payments on the arrearage; *provided*,
13 payment on arrears has *not* been established or modified in
14 the previous two (2) years; *or*

15 (3) comes into compliance with the court order of
16 support, and is issued written confirmation of compliance.

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

20 (d) Service of the notice of proposed action must be made
21 by personal service or, if unable to locate the non-custodial parent,
22 then by certified mail, return receipt requested.

23 **Section 34204. Stay of Action.**

24 (a) *If* the non-custodial parent petitions for an

1 administrative hearing within twenty (20) days of service of the
2 notice of proposed action, the Department shall stay action to
3 certify the non-custodial parent to any licensing body for non-
4 compliance with a court order of support, until thirty (30) days
5 after the Department serves a decision after hearing that finds the
6 absent parent is in non-compliance with the order of support.

7 (b) *If* payment on arrears has *not* been established or
8 modified in the previous two (2) years, the Department shall stay
9 action to certify a non-custodial parent to a licensing body for non-
10 compliance with a court order of support for ninety (90) days *if* the
11 non-custodial parent files with the court and serves on the
12 Department, within twenty (20) days of the date the notice of
13 proposed action is served on the non-custodial parent, a motion
14 to:

15 (1) establish payments on an arrearage for which no
16 payments have been ordered; *or*

17 (2) modify an order for payments on an arrearage so
18 as to encompass arrears for which no payment has
19 theretofore been ordered, or to modify an existing order for
20 payments on the arrearage.

21 (c) *If* non-custodial parent files appeal of the hearing
22 officer's decision under §34208 of this chapter in accordance with
23 the Administrative Adjudication Law, 5 GCA §§9100-9241, the
24 Department shall stay action to certify the non-custodial parent to
25 a licensing body for non-compliance with a court order of support

1 until the court renders its decision.

2 **Section 34205. Petition for Administrative Hearing.**

3 (a) A non-custodial parent may file a petition for an
4 administrative hearing after being served the notice of proposed
5 action.

6 (b) Upon receipt of the petition for hearing the
7 Department acquires jurisdiction of the non-custodial parent for
8 purposes of adjudication of the non-custodial parent's petition for
9 hearing under the Administrative Adjudication Law 5 GCA
10 §§9100-9241.

11 **Section 34206. Hearing.**

12 (a) An Administrative Hearing Officer shall conduct a
13 hearing petitioned for by the non-custodial parent pursuant to the
14 Administrative Adjudication Law 5 GCA §§9100-9241. Issues that
15 may be decided at the hearing shall be limited to whether:

16 (1) the non-custodial parent is required to pay child
17 support under a court order of support;

18 (2) the non-custodial parent is in compliance with a
19 court order of support;

20 (3) payment on arrears has been established or
21 modified in the two (2) years previous to the service of the
22 notice of proposed action;

23 (4) the non-custodial parent has been served with
24 more than two (2) notices of proposed action in the past five
25 (5) years.

1 **Section 34207. Decision After Hearing.**

2 (a) The Hearing Officer shall issue a decision after hearing
3 without undue delay. The decision must be based on the hearing
4 record only.

5 (b) The Department shall personally serve or send a copy
6 of the decision to the non-custodial parent by certified mail, return
7 receipt requested.

8 (c) The decision must inform the non-custodial parent of
9 the non-custodial parent's right to appeal in accordance with the
10 Administrative Procedure Act, 5 GCA §§9100-9241.

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

21 **Section 34209. Certification to Licensing Body.**

22 (a) The Department shall certify that a non-custodial
23 parent is in non-compliance with a court order of support, and file
24 that certification with a licensing body that has issued the non-
25 custodial parent a license *if*:

1 (1) the non-custodial parent has been served with a
2 notice of proposed action, the non-custodial parent has *not*
3 requested a hearing or filed a motion to establish or modify
4 payment on the arrearage within twenty (20) days of the
5 date of the notice of proposed action was served on the non-
6 custodial parent and the non-custodial parent is in non-
7 compliance at the expiration of the twenty (20) day time
8 period;

9 (2) the Department issues a decision after hearing
10 that the non-custodial parent is in non-compliance with a
11 court order of support, and the non-custodial parent has *not*
12 appealed within thirty (30) days of the date the decision is
13 mailed to the non-custodial parent;

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

16 (4) a motion to establish or modify payment on
17 arrears has been filed, but it has *not* been decided within
18 ninety (90) days of the date of the filing of the motion,
19 payment on arrears has been established or modified in the
20 previous two (2) years, or the motion to modify payment on
21 arrears has been denied.

22 (b) The Department shall send by certified mail a copy of
23 the certification issued under Subsection (a) of this Section to the
24 non-custodial parent.

25 **Section 34210. Compliance; How Obtained.** A non-custodial

1 parent may come into compliance by paying off the arrearage, or by
2 obtaining an order establishing periodic payment on the arrears for
3 which no payment has been ordered thereon, or by obtaining an order
4 modifying an existing order for payments on an arrearage to encompass
5 arrears for which no payment has been heretofore ordered thereon;
6 provided, *if* the non-custodial parent has been served with more than
7 two (2) notices of proposed action in the past five (5) years, compliance
8 may be obtained only by payment of all overdue and unpaid payments
9 that have accrued since the effective date of this Act. *If* the non-
10 custodial parent's non-compliance is failure to make court ordered
11 payments on an arrearage, the non-custodial parent may come into
12 compliance by obtaining an order modifying the existing order for
13 payments on the arrearage; provided, *if* the non-custodial parent has
14 been served with more than two (2) notices of proposed action in the
15 past five (5) years, compliance may be obtained only by payment of all
16 overdue and unpaid payments that have accrued since the effective date
17 of this Act.

18 **Section 34211. Written Confirmation of Compliance.** *If* a non-
19 custodial parent who is served with a notice of proposed action or is
20 certified to a licensing body subsequently comes into compliance with a
21 court order of support, the Department shall provide the non-custodial
22 parent and the licensing bodies with written confirmation that the non-
23 custodial parent is in compliance with this order within twenty-four (24)
24 hours of compliance.

1 **Section 34212. Exchange of Information.** Within six (6)
2 months of the effective date of this Act, all licensing bodies shall
3 provide, and update quarterly, the Department with information,
4 concerning applicants for licensure and current license holders, on
5 magnetic tape or other machine readable form, *if* available. Such
6 information shall include the license holder or applicant's name, address
7 of record, Federal employer identification number or social security
8 number, type of license, effective date of license or renewal, expiration
9 date of license, and active or inactive status.

10 **Section 34213. Suspension, Non-issuance and Non-renewal of**
11 **Licenses.** A licensing body shall suspend the license of a non-custodial
12 parent who has been certified as being in non-compliance with a court
13 order of support, and may *not* issue or renew the license of a non-
14 custodial parent who has been certified as being in non-compliance with
15 a court order of support or payment agreement, until the non-custodial
16 parent or the Department provides the licensing body with written
17 confirmation from the Department or the Superior Court of Guam that
18 the non-custodial parent is in compliance with the court order.

19 **Section 34214. Notice from Licensing Body.** A licensing
20 body shall notify a non-custodial parent certified by the Department to
21 be in non-compliance at least ten (10) days prior to denial or suspension,
22 that the non-custodial parent's application for issuance or renewal of a
23 license will *not* be granted or that the non-custodial parent's license has
24 been suspended because the non-custodial parent's name has been

1 certified by the Department as being in non-compliance with a court
2 order of support. A notice of suspension must specify the effective date
3 of the suspension, and that the suspension will continue in effect, or the
4 license will *not* be issued or renewed until the non-custodial parent
5 provides the licensing body with the Department's written confirmation
6 that the non-custodial parent is in compliance with the court order of
7 support.

8 **Section 34215. Subsequent Re-issuance, Renewal or Other**
9 **Extension of License.** After receipt of written confirmation of
10 compliance, a licensing body shall, within five (5) working days, reissue,
11 renew, or otherwise extend a license against which action had been
12 taken for non-compliance with an order for support. The re-issuance,
13 renewal, or other extension of the license after receipt of written
14 confirmation of compliance shall occur pursuant to the requirements of
15 the licensing body, *except* that the licensing body may waive any
16 applicable requirement for re-issuance, renewal or other extension *if* it
17 determines that the imposition of that requirement places an undue
18 burden on the non-custodial parent and that waiver of that requirement
19 is consistent with the public interest.

20 **Section 34216. Claim of Special Need.** A non-custodial
21 parent whose vehicle operator's license is suspended for non-
22 compliance with a court order of support may request the Department
23 to issue a written statement that permits the Director of the Department
24 of Revenue and Taxation to issue a temporary license valid for a period

1 *not to exceed* one hundred twenty (120) days. The Department may
2 grant such requests only upon a showing of medical need or work
3 requirement to obtain a temporary license and *only if* the non-custodial
4 parent demonstrates that person's intention to come into compliance
5 with the court order of support.

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

13 **Section 3.** Section 3101(h)(6) is hereby *added* to Article 1, Chapter 3 of
14 Title 16 of the Guam Code Annotated to read as follows:

15 "(6) Who has been certified by the Department of Law as being
16 in non-compliance with a court order of support, *unless* a confirmation
17 of compliance from the Department of Law or the Superior Court of
18 Guam is received by the Director of Revenue and Taxation."

19 **Section 4.** Section 3111(m) is hereby *added* to Article 1, Chapter 3 of
20 Title 16 of the Guam Code Annotated to read as follows:

21 "(m) The Director of Revenue and Taxation shall suspend the
22 privilege of any person to operate a motor vehicle upon a highway
23 upon receipt of a certification from the Department of Law that the
24 person is in non-compliance with a court order of support, such

1 suspension to remain in effect until a confirmation of compliance from
2 the Department of Law or the Superior Court of Guam is received.”

3 **Section 5.** Section 3111(n) is hereby *added* to Article 1, Chapter 3 of Title
4 16 of the Guam Code Annotated to read as follows:

5 “(n) At the request of a non-custodial parent whose operator's
6 license has been suspended for non-compliance with a court order of
7 support under Subsection (m) of this Section, the Director of Revenue
8 and Taxation may issue the non-custodial parent a temporary operator's
9 license valid for a period *not to exceed* one hundred twenty (120) days.”

10 **Section 6.** Section 63131 is hereby *added* to Article 1, Chapter 63,
11 Division 6 of Title 5 of the Guam Code Annotated to read as follows:

12 “**Section 63131. Nonpayment of Child Support.** The Director
13 of Agriculture shall *not* issue or re-issue any annual hunting or fishing
14 license provided under this Article or regulations adopted under this
15 Article to any person upon receipt of a certification from the
16 Department of Law that the person is in non-compliance with a court
17 order of support, and shall suspend any such license in effect at the time
18 of receipt of such certification, with such suspension to remain in effect
19 until a confirmation of compliance is received from the Department of
20 Law.”

21 **Section 7.** Section 34102(j) is hereby *added* to Chapter 34, Division 3 of
22 Title 7 of the Guam Code Annotated to read as follows:

23 “(j) In any contempt action involving support, if the court finds
24 that a contempt occurred, the court may order the suspension of a motor

1 vehicle operator's license, a professional or occupational license, or
2 recreational license, or order denial of an application therefor, until the
3 contemnor purges that person's contempt in such manner as the court
4 directs."

5 **Section 8.** Article 3 is hereby *added* to Chapter 34, Division 3 of Title 5
6 of the Guam Code Annotated to read as follows:

7 **"ARTICLE 3.**

8 **NEW HIRE DIRECTORY.**

9 **Section 34301. Definitions.** As used in this Article:

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

11 (1) the first day for which an employee is owed
12 compensation by an employer; *or*

13 (2) the first day that an employee reports to work or
14 performs labor or services for an employer.

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

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

21 (d) 'Independent Contractor' means a person who
22 performs services for remuneration for another person who does
23 not have the right to control and direct the person in the
24 performance of such service, but is liable in contract to that other

1 person for the results attained through such service.

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

6 (1) if the person for whom the individual performs
7 the services does not have control of the payment of the
8 wages for such services, the term 'employer' means the
9 person having control of the payment of such wages, *and*

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

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

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

23 **Section 34303. Duty to Report.**

24 (a) An employer shall report to the Director of New Hires

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

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

7 (1) be employed for less than three (3) months
8 duration;

9 (2) have gross earnings of less than Three-hundred
10 Dollars (\$300.00) per month;

11 (3) be employed intermittently, such that the
12 employee will be paid for less than three hundred and fifty
13 (350) hours during a continuous six (6) month period.

14 **Section 34304. Penalty.**

15 (a) An employer who:

16 (1) fails to file reports as required by the
17 Department of Law, Family Division and has *not* previously
18 received a written notice of non-compliance, shall receive
19 written notice of non-compliance;

20 (2) fails to file reports as required by this Chapter
21 and has previously received written notice of non-
22 compliance, is subject to a civil penalty of Twenty-four
23 Dollars (\$24.00) for each intentionally unreported employee,
24 *except* that the penalty shall be Four Hundred Ninety-nine
25 Dollars (\$499.00) for each intentionally unreported employee

1 *if* the failure to report is the result of a conspiracy between
2 the employer and the employee *not* to supply the required
3 report or to supply a false or incomplete report.

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

8 **Section 34305. Means to Report.**

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

16 (b) *If* an employer transmits information magnetically or
17 electronically, the employer shall submit the report:

18 (1) twice a month, *and*

19 (2) *not less than* twelve (12) days or more than
20 sixteen (16) days apart.

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

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

3 (1) the employee's name, address, social security number,
4 and date of birth when available, which can be handwritten or
5 otherwise added to the W-4 form, W-9 form or other document
6 submitted; *and*

7 (2) the employer's name, address, and federal
8 identification number.

9 **Section 34307. Access to and Disposition of Data.**

10 (a) The Director of New Hires shall destroy information
11 supplied by employers relating to the hiring of employees six (6)
12 months after the information is supplied to it. Data contained in
13 the Directory of New Hires shall be disclosed only to the Family
14 Division in the Office of the Attorney General, and other Guam
15 and Federal agencies as authorized by Federal law.

16 (b) Within three (3) working days after the data
17 information is reported to the Department of Law's Director of
18 New Hires, the Department of Law shall furnish the information
19 to the National Directory of New Hires.

20 (c) The Department of Revenue and Taxation shall
21 furnish quarterly to the Director of New Hires, who shall in turn
22 furnish to the National Directory of New Hires extracts of the
23 reports required under Federal law to be made to the Secretary of
24 Labor concerning the wages and compensation paid to
25 individuals, by such dates, in such format, and containing such

1 information as the United States Secretary of Health and Human
2 Services shall specify in regulation.

3 **Section 34308. Government of Guam to Report Hiring of**
4 **Independent Contractors.** The government of Guam, when acting in
5 the capacity of contractee, shall report the execution of a contract with
6 any person as an independent contractor to the Director of New Hires in
7 the same manner as the hiring of an employee is reported."

8 **Section 9.** Section 5503(d) is hereby *added* to Chapter 5A, Division
9 1 of Title 19 of the Guam Code Annotated to read as follows:

10 "(d) To hear and decide, *unless* the Referee's recommended
11 decision is appealed by any party, whether an employer has committed
12 the violation of failing to report the hiring or rehiring of an employee."

13 **Section 10. Severability.** *If* any provision of this Law or part
14 contained in any Section, or its application to any person or circumstance is
15 found to be invalid or contrary to law, such invalidity shall *not* affect other
16 provisions or applications of this Law which can be given effect without the
17 invalid provisions or application, and to this end the provisions of this Law
18 are severable.



FILE

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

August 30, 2000

(DATE)

Memorandum

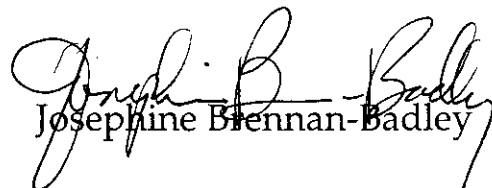
To: Senator John C. Salas

From: Clerk of the Legislature

Subject: Report on Bill No. 472(COR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 472(COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment

received


2/30/00



✓

COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

August 29, 2000

The Honorable Antonio R. Unpingco, Speaker
Mina' Bente Singko na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Mr. Speaker:

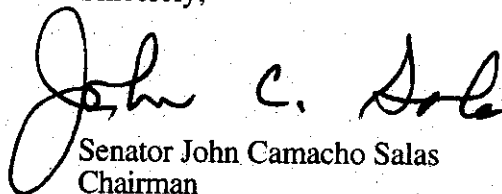
The Committee on Judiciary, Public Safety, Consumer Protection & Human Resources Development to which was referred Bill No. 472, has had the same under consideration and now wishes to report back the same with the recommendation **TO DO PASS**.

The Committee votes are as follows:

| | |
|--------------------|----------|
| To Do Pass | <u>7</u> |
| Not To Pass | <u>0</u> |
| Abstain | <u>0</u> |
| Other (Off-Island) | <u>0</u> |

A copy of the Committee's report and other pertinent documents are attached for your reference and information.

Sincerely,


Senator John Camacho Salas
Chairman



COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

August 29, 2000

To: Senator Kaleo S. Moylan, Vice Chairperson
Speaker Antonio R. Unpingco, Ex-officio
Senator Frank B. Aguon, Jr.
Senator Joanne M.S. Brown
Senator Mark Forbes
Senator Alberto C. Lamorena, V
Senator Carlotta A. Leon Guerrero

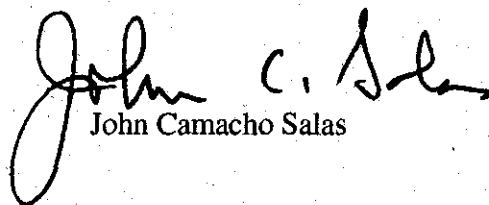
From: Chairman

Subject: Voting

Please find the attached committee report and voting sheet for the following:

Bill 472: An Act To Add Articles 2, 3 And §34154 To Chapter 34, Division 3, And §63131 To Article 1, Chapter 63, Division 6, All To Title 5, To Add §§3101(h)(6), 3111(m), And 3111(n) To Article 1, Chapter 3 of Title 16, To Add §34102(j) To Chapter 34, Division 3 Of Title 7, And To Add §5503(d) To Chapter 5A, Division 1 of Title 19, All Of The Guam Code Annotated , Relative To Providing Guidelines For The Support Of Children of Guam.

If you have any questions on the above, please contact me, for assistance.
Thank you for your cooperation.


John Camacho Salas



SENATOR JOHN CAMACHO SALAS CHAIRMAN

COMMITTEE ON AGRICULTURE, LAND, HOUSING, COMMUNITY AND HUMAN RESOURCES DEVELOPMENT

VOTING SHEET

BILL NUMBER 472

TITLE AN ACT TO ADD ARTICLES 2, 3 and §34514 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5. TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM.

| | TO DO PASS | NOT TO PASS | ABSTAIN | INACTI FILE |
|--|------------|-------------|---------|-------------|
|--|------------|-------------|---------|-------------|

John C. Salas
John Camacho Salas, Chairman

✓

Kalep S. Moylan
Kalep S. Moylan, Vice-Chairman

✓

Frank B. Aguon, Jr.
Frank B. Aguon, Jr., Member

✓

Joanne M.S. Brown
Joanne M.S. Brown, Member

✓

Mark Forbes
Mark Forbes, Member

✓

Alberto C. Lamorena V, Member

Carlotta A. Leon Guerrero
Carlotta A. Leon Guerrero, Member

✓

Antonio R. Unpingco, Ex-Officio

✓

**Committee on Judiciary, Public Safety, Consumer Protection, and
Human Resources Development
Committee Report on Bill 472
Publicly Heard Friday, August 18, 2000
2:00 P.M.**

Bill 472: AN ACT TO ADD ARTICLES 2 AND 3 AND §34154 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM.

I. ATTENDANCE

- Senator John C. Salas, Chairman
- Senator Vicente C. Pangelinan
- Senator Simon A. Sanchez II

II. MAIN SPONSORS

Senator J.C. Salas
Senator K.S. Moylan
Senator L.F. Kasperbauer

III. SYNOPSIS

Bill 472 which was recently introduced to clarify existing child support guidelines in parental joint custody situations. Bill 472 also seeks to reenact expired legislation needed to obtain federal grant funding for the Department of Law to enforce child support collections plans and establish a new hire directory. Bill 472 is intended as new legislation to correct Bill 449 which was vetoed recently by the Governor.

IV. TESTIMONY

Chairman Salas welcomed witnesses to the public hearing of Bill 472 and gave a brief synopsis of the bill; i.e., it sought to resolve two issues: (1) funding compliance and (2) clarification of child support guidelines involving joint custody. Senator Salas then stated that two days prior to the hearing the committee held a roundtable meeting with private practice attorneys and divorcees. The main issues during both the Hearing and the roundtable was enforcement the child support guidelines by the Family Division of the Attorney Generals office. The complexity of child support decrees and enforcement were discussed as were alternatives to the present methods used by attorneys and courts alike.

Jonie Laville, Self-representation, submitted oral testimony against Section 8 of Bill 42 she states that her only concern was about the Guidelines of the child support payments.

Attorney Dan Somerfleck, stated that he was in opposition of Bill 472, mainly section 8 of the bill. He then voiced the concern over the cap of Seventy-five Thousand Dollar (\$75,000) and maintained the courts have used formulas to calculate the child support payments. This process was more equitable and representative of the needed allocations for child support.

Senator Sanchez, stated that the cap was to protect parents who decide to further their lifestyle and make a larger income than the other parent.

Chairman Salas indicated such a cap was being used by the state of Alabama which was also a IV-D State Plan state and that it allowed parents to maximize their incomes with the continued burden of child support and a different lifestyle.

Attorney Somerfleck, stated that the first and primary concern that should be in the courts is the child's welfare. He also stated that the child should not have to change different lifestyles despite changes in their households. He also stated that he has not seen a Joint Custody situation work.

Curtis Van De Veld, Private Attorney, stated that he authored and supported Bill 472 so that the Guidelines and Child Support laws from Guam would be updated. He also stated that the salary cap that was set would keep the standard of living at a certain cap so that if on parents income goes up the person is not penalized for improving his/her life.

V. WRITTEN TESTIMONY

The committee has received testimony from the Attorney General John Tarantino, Attorney Daniel Somarfleck, Attorney Douglas Moylan, and Mr. David Lubofsky. Please see attachments for testimonies.

VI. COMMITTEE FINDINGS & RECOMMENDATION

Bill 472 is intended to enable the Island of Guam to move into compliance with federal guidelines under its IV-D State Plan with the federal government. The issue of joint legal and/or physical custody in child support is more complex than anticipated and should be examined on its own merit and principles rather than through this bill. The committee feels a priority should be given to working with the Department of Law and executive branch to obtain funds available from the federal government and thus takes a position to work cooperatively with the executive branch in securing these funds with legislation which assures a more lasting compliance and fuller commitment to national objectives in child support enforcement and reporting.

The committee therefore recommends that Bill 472, as substituted by the committee, be approved for enactment by the legislature.

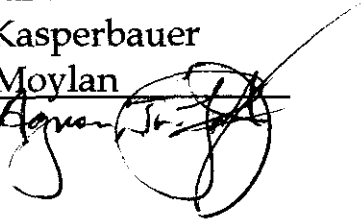
MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
2000 (SECOND) Regular Session

Bill No. 472 (COR)

As substituted by the Committee on
Judiciary, Public Safety, Consumer Protection
and Human Resources Development.

Introduced by:

J. C. Salas
L. F. Kasperbauer
K. S. Moylan

F. B. Aguan, Jr. 

AN ACT TO ADD ARTICLES 2 AND 3 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds that Public Law Number 24-116 provided guidelines for the support of
4 children on Guam. Contained within §13 of the law was a sunset provision
5 calling for certain sections of the legislation to expire on September 30, 1999.
6 Such provisions did in fact expire pursuant to law. In order to secure Federal

1 Funding, *I Liheslaturan Guåhan* intends that the provisions of law become
2 permanent at the recommendation of the Department of Law.

3 **Section 2.** Article 2 is hereby *added* to Chapter 34, Division 3 of Title 5
4 of the Guam Code Annotated to read as follows:

5 **"ARTICLE 2.**

6 **ACTION AGAINST LICENSES FOR FAILURE**

7 **TO PAY CHILD SUPPORT.**

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

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

18 (a) **'Administrative hearing'** means a hearing conducted
19 in accordance with the Administrative Adjudication Law, 5 GCA
20 §§9100-9241.

21 (b) **'Compliance with an order of support'** means the
22 total of a non-custodial parent's overdue and unpaid court
23 ordered current child support payments for which no payment
24 has been ordered thereon, or overdue and unpaid court ordered

1 payments on an arrearage, is not greater than three (3) months
2 accrual from the effective date of this Act or the date of the order
3 pursuant to which payments were to be made, whichever is later.

4 (c) **'Court order of support'** means any judgment or order
5 for the support of dependent children, or for payments on an
6 arrearage arising out of failure to comply with such judgment or
7 order, issued by any court of Guam, another territory, or a State,
8 including an order in a final decree of divorce or judgment or
9 order issued in accordance with an administrative procedure
10 established by State or local law that affords substantial due
11 process and is subject to judicial review.

12 (d) **'Department'** means the Department of Law, *unless*
13 otherwise expressly provided, or *unless* the context clearly
14 requires otherwise.

15 (e) **'Hearing officer'** means a hearing officer within the
16 meaning of the Administrative Adjudication Law, 5 GCA §§9100-
17 9241.

18 (f) **'Licensing body'** means any board, commission,
19 department, division, bureau or officer of the Island of Guam
20 authorized by law to grant, issue, renew, condition, limit, suspend
21 or revoke an authority, license, privilege or right to hunt, fish,
22 operate a motor vehicle or engage in a business occupation,
23 profession or industry.

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

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

11 **Section 34203. Notice of Proposed Action.**

12 (a) *If* a non-custodial parent is in non-compliance with a
13 court order of support, the Department may serve the non-
14 custodial parent with a notice of proposed action indicating its
15 intention to certify to a licensing body that has issued a license to
16 the non-custodial parent, that the non-custodial parent is in non-
17 compliance with a court order of support.

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

23 (1) files a petition for an administrative hearing, *or*

24 (2) files with the court a motion to establish

1 payments on an arrearage for which no payments have been
2 ordered, a motion to modify an order for payments on an
3 arrearage so as to encompass arrears for which no payment
4 had been theretofore ordered, or a motion to modify an
5 existing order for payments on the arrearage; *provided*,
6 payment on arrears has *not* been established or modified in
7 the previous two (2) years; *or*

8 (3) comes into compliance with the court order of
9 support, and is issued written confirmation of compliance.

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

13 (d) Service of the notice of proposed action must be made
14 by personal service or, if unable to locate the non-custodial parent,
15 then by certified mail, return receipt requested.

16 **Section 34204. Stay of Action.**

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

24 (b) *If* payment on arrears has *not* been established or

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

8 (1) establish payments on an arrearage for which no
9 payments have been ordered; *or*

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

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

20 **Section 34205. Petition for Administrative Hearing.**

21 (a) A non-custodial parent may file a petition for an
22 administrative hearing after being served the notice of proposed
23 action.

24 (b) Upon receipt of the petition for hearing the

1 Department acquires jurisdiction of the non-custodial parent for
2 purposes of adjudication of the non-custodial parent's petition for
3 hearing under the Administrative Adjudication Law 5 GCA
4 §§9100-9241.

5 **Section 34206. Hearing.**

6 (a) An Administrative Hearing Officer shall conduct a
7 hearing petitioned for by the non-custodial parent pursuant to the
8 Administrative Adjudication Law 5 GCA §§9100-9241. Issues that
9 may be decided at the hearing shall be limited to whether:

10 (1) the non-custodial parent is required to pay child
11 support under a court order of support;

12 (2) the non-custodial parent is in compliance with a
13 court order of support;

14 (3) payment on arrears has been established or
15 modified in the two (2) years previous to the service of the
16 notice of proposed action;

17 (4) the non-custodial parent has been served with
18 more than two (2) notices of proposed action in the past five
19 (5) years.

20 **Section 34207. Decision After Hearing.**

21 (a) The Hearing Officer shall issue a decision after hearing
22 without undue delay. The decision must be based on the hearing
23 record only.

24 (b) The Department shall personally serve or send a copy

1 of the decision to the non-custodial parent by certified mail, return
2 receipt requested.

3 (c) The decision must inform the non-custodial parent of
4 the non-custodial parent's right to appeal in accordance with the
5 Administrative Procedure Act, 5 GCA §§9100-9241.

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

16 **Section 34209. Certification to Licensing Body.**

17 (a) The Department shall certify that a non-custodial
18 parent is in non-compliance with a court order of support, and file
19 that certification with a licensing body that has issued the non-
20 custodial parent a license *if*:

21 (1) the non-custodial parent has been served with a
22 notice of proposed action, the non-custodial parent has *not*
23 requested a hearing or filed a motion to establish or modify
24 payment on the arrearage within twenty (20) days of the

1 date of the notice of proposed action was served on the non-
2 custodial parent and the non-custodial parent is in non-
3 compliance at the expiration of the twenty (20) day time
4 period;

5 (2) the Department issues a decision after hearing
6 that the non-custodial parent is in non-compliance with a
7 court order of support, and the non-custodial parent has *not*
8 appealed within thirty (30) days of the date the decision is
9 mailed to the non-custodial parent;

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

12 (4) a motion to establish or modify payment on
13 arrears has been filed, but it has *not* been decided within
14 ninety (90) days of the date of the filing of the motion,
15 payment on arrears has been established or modified in the
16 previous two (2) years, or the motion to modify payment on
17 arrears has been denied.

18 (b) The Department shall send by certified mail a copy of
19 the certification issued under Subsection (a) of this Section to the
20 non-custodial parent.

21 **Section 34210. Compliance; How Obtained.** An non-
22 custodial parent may come into compliance by paying off the arrearage,
23 or by obtaining an order establishing periodic payment on the arrears
24 for which no payment has been ordered thereon, or by obtaining an

1 order modifying an existing order for payments on an arrearage to
2 encompass arrears for which no payment has been heretofore ordered
3 thereon; provided, *if* the non-custodial parent has been served with
4 more than two (2) notices of proposed action in the past five (5) years,
5 compliance may be obtained only by payment of all overdue and
6 unpaid payments that have accrued since the effective date of this Act.
7 *If* the non-custodial parent's non-compliance is failure to make court
8 ordered payments on an arrearage, the non-custodial parent may come
9 into compliance by obtaining an order modifying the existing order for
10 payments on the arrearage; provided, *if* the non-custodial parent has
11 been served with more than two (2) notices of proposed action in the
12 past five (5) years, compliance may be obtained only by payment of all
13 overdue and unpaid payments that have accrued since the effective
14 date of this Act.

15 **Section 34211. Written Confirmation of Compliance.** *If* a non-
16 custodial parent who is served with a notice of proposed action or is
17 certified to a licensing body subsequently comes into compliance with a
18 court order of support, the Department shall provide the non-custodial
19 parent and the licensing bodies with written confirmation that the non-
20 custodial parent is in compliance with this order within twenty-four (24)
21 hours of compliance.

22 **Section 34212. Exchange of Information.** Within six (6)
23 months of the effective date of this Act, all licensing bodies shall
24 provide, and update quarterly, the Department with information,

1 concerning applicants for licensure and current license holders, on
2 magnetic tape or other machine readable form, *if* available. Such
3 information shall include the license holder or applicant's name,
4 address of record, Federal employer identification number or social
5 security number, type of license, effective date of license or renewal,
6 expiration date of license, and active or inactive status.

7 **Section 34213. Suspension, Non-issuance and Non-renewal of**
8 **Licenses.** A licensing body shall suspend the license of a non-custodial
9 parent who has been certified as being in non-compliance with a court
10 order of support, and may *not* issue or renew the license of a non-
11 custodial parent who has been certified as being in non-compliance with
12 a court order of support or payment agreement, until the non-custodial
13 parent or the Department provides the licensing body with written
14 confirmation from the Department or the Superior Court of Guam that
15 the non-custodial parent is in compliance with the court order.

16 **Section 34214. Notice from Licensing Body.** A licensing
17 body shall notify a non-custodial parent certified by the Department to
18 be in non-compliance at least ten (10) days prior to denial or suspension,
19 that the non-custodial parent's application for issuance or renewal of a
20 license will *not* be granted or that the non-custodial parent's license has
21 been suspended because the non-custodial parent's name has been
22 certified by the Department as being in non-compliance with a court
23 order of support. A notice of suspension must specify the effective date
24 of the suspension, and that the suspension will continue in effect, or the

1 license will *not* be issued or renewed until the non-custodial parent
2 provides the licensing body with the Department's written confirmation
3 that the non-custodial parent is in compliance with the court order of
4 support.

5 **Section 34215. Subsequent Re-issuance, Renewal or Other**
6 **Extension of License.** After receipt of written confirmation of
7 compliance, a licensing body shall, within five (5) working days,
8 reissue, renew, or otherwise extend a license against which action had
9 been taken for non-compliance with an order for support. The re-
10 issuance, renewal, or other extension of the license after receipt of
11 written confirmation of compliance shall occur pursuant to the
12 requirements of the licensing body, *except* that the licensing body may
13 waive any applicable requirement for re-issuance, renewal or other
14 extension *if* it determines that the imposition of that requirement places
15 an undue burden on the non-custodial parent and that waiver of that
16 requirement is consistent with the public interest.

17 **Section 34216. Claim of Special Need.** A non-custodial
18 parent whose vehicle operator's license is suspended for non-
19 compliance with a court order of support may request the Department
20 to issue a written statement that permits the Director of the Department
21 of Revenue and Taxation to issue a temporary license valid for a period
22 *not to exceed* one hundred twenty (120) days. The Department may
23 grant such requests only upon a showing of medical need or work
24 requirement to obtain a temporary license and *only if* the non-custodial

1 parent demonstrates that person's intention to come into compliance
2 with the court order of support.

3 **Section 34217. Assistance to Unrepresented Persons.** The
4 Hearings Division, Superior Court of Guam, shall make available to
5 non-custodial parents who are *not* represented by an attorney, forms
6 which would enable such non-custodial parents to make handwritten
7 applications for reduction of their arrearages to judgment and for the
8 establishment or modification of orders requiring payments on
9 arrearages."

10 **Section 3.** Section 3101(h)(6) is hereby *added* to Article 1, Chapter 3 of
11 Title 16 of the Guam Code Annotated to read as follows:

12 "(6) Who has been certified by the Department of Law as being
13 in non-compliance with a court order of support, *unless* a confirmation
14 of compliance from the Department of Law or the Superior Court of
15 Guam is received by the Director of Revenue and Taxation."

16 **Section 4.** Section 3111(m) is hereby *added* to Article 1, Chapter 3 of
17 Title 16 of the Guam Code Annotated to read as follows:

18 "(m) The Director of Revenue and Taxation shall suspend the
19 privilege of any person to operate a motor vehicle upon a highway
20 upon receipt of a certification from the Department of Law that the
21 person is in non-compliance with a court order of support, such
22 suspension to remain in effect until a confirmation of compliance from
23 the Department of Law or the Superior Court of Guam is received."

24 **Section 5.** Section 3111(n) is hereby *added* to Article 1, Chapter 3 of Title

1 16 of the Guam Code Annotated to read as follows:

2 “(n) At the request of a non-custodial parent whose operator's
3 license has been suspended for non-compliance with a court order of
4 support under Subsection (m) of this Section, the Director of Revenue
5 and Taxation may issue the non-custodial parent a temporary operator's
6 license valid for a period *not to exceed* one hundred twenty (120) days.”

7 **Section 6.** Section 63131 is hereby *added* to Article 1, Chapter 63,
8 Division 6 of Title 5 of the Guam Code Annotated to read as follows:

9 “**Section 63131. Nonpayment of Child Support.** The Director
10 of Agriculture shall *not* issue or re-issue any annual hunting or fishing
11 license provided under this Article or regulations adopted under this
12 Article to any person upon receipt of a certification from the
13 Department of Law that the person is in non-compliance with a court
14 order of support, and shall suspend any such license in effect at the time
15 of receipt of such certification, with such suspension to remain in effect
16 until a confirmation of compliance is received from the Department of
17 Law.”

18 **Section 7.** Section 34102(j) is hereby *added* to Chapter 34, Division 3 of
19 Title 7 of the Guam Code Annotated to read as follows:

20 “(j) In any contempt action involving support, if the court finds
21 that a contempt occurred, the court may order the suspension of a
22 motor vehicle operator’s license, a professional or occupational license,
23 or recreational license, or order denial of an application therefor, until
24 the contemnor purges that person’s contempt in such manner as the

1 court directs.”

2 **Section 8.** Article 3 is hereby *added* to Chapter 34, Division 3 of Title 5
3 of the Guam Code Annotated to read as follows:

4 **“ARTICLE 3.**

5 **NEW HIRE DIRECTORY.**

6 **Section 34301. Definitions.** As used in this Article:

7 (a) **‘Date of hiring’** means the earlier of:

8 (1) the first day for which an employee is owed
9 compensation by an employer; *or*

10 (2) the first day that an employee reports to work or
11 performs labor or services for an employer.

12 (b) **‘Earnings’** means payment owed by an employer for
13 labor or services rendered by an employee.

14 (c) **‘Employee’** means an individual who performs
15 services for remuneration for another person who has the right to
16 control and direct the individual in the means by which such
17 services are performed.

18 (d) **‘Independent Contractor’** means a person who
19 performs services for remuneration for another person who does
20 not have the right to control and direct the person in the
21 performance of such service, but is liable in contract to that other
22 person for the results attained through such service.

23 (e) **‘Employer’** means the person, including placement
24 agencies, temporary employment agencies government entities

1 and labor organizations, for whom any individual performs any
2 service as the employee of such person, *except* that:

3 (1) if the person for whom the individual performs
4 the services does not have control of the payment of the
5 wages for such services, the term 'employer' means the
6 person having control of the payment of such wages, *and*

7 (2) in the case of a person paying wages on behalf of
8 a non-resident alien individual, foreign partnership, or
9 foreign corporation, *not* engaged in trade or business within
10 the United States, the term 'employer' means such person.

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

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

20 **Section 34303. Duty to Report.**

21 (a) An employer shall report to the Director of New Hires
22 whenever that employer hires or rehires an employee. Employers
23 shall submit reports required under this subsection within twenty
24 (20) calendar days of the date of hiring or rehiring of the

1 employee.

2 (b) An employer is *not* required to report to the Director
3 of New Hires the hiring of any person who will:

4 (1) be employed for less than three (3) months
5 duration;

6 (2) have gross earnings of less than Three-hundred
7 Dollars (\$300.00) per month;

8 (3) be employed intermittently, such that the
9 employee will be paid for less than three hundred and fifty
10 (350) hours during a continuous six (6) month period.

11 **Section 34304. Penalty.**

12 (a) An employer who:

13 (1) fails to file reports as required by the
14 Department of Law, Family Division and has *not* previously
15 received a written notice of non-compliance, shall receive
16 written notice of non-compliance;

17 (2) fails to file reports as required by this Chapter
18 and has previously received written notice of non-
19 compliance, is subject to a civil penalty of Twenty-four
20 Dollars (\$24.00) for each intentionally unreported employee,
21 *except* that the penalty shall be Four Hundred Ninety-nine
22 Dollars (\$499.00) for each intentionally unreported employee
23 *if* the failure to report is the result of a conspiracy between
24 the employer and the employee *not* to supply the required

1 report or to supply a false or incomplete report.

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

6 **Section 34305. Means to Report.**

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

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

16 (1) *twice a month, and*

17 (2) *not less than twelve (12) days or more than*
18 *sixteen (16) days apart.*

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

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

1 (1) the employee's name, address, social security number,
2 and date of birth when available, which can be handwritten or
3 otherwise added to the W-4 form, W-9 form or other document
4 submitted; *and*

5 (2) the employer's name, address, and federal
6 identification number.

7 **Section 34307. Access to and Disposition of Data.**

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

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

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

1 Services shall specify in regulation.

2 **Section 34308. Government of Guam to Report Hiring of**
3 **Independent Contractors.** The government of Guam, when acting in
4 the capacity of contractee, shall report the execution of a contract with
5 any person as an independent contractor to the Director of New Hires
6 in the same manner as the hiring of an employee is reported.”

7 **Section 9.** Section 5503(d) is hereby *added* to Chapter 5A, Division
8 1 of Title 19 of the Guam Code Annotated to read as follows:

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

12 **Section 10. Severability.** *If* any provision of this Law or part
13 contained in any Section, or its application to any person or circumstance is
14 found to be invalid or contrary to law, such invalidity shall *not* affect other
15 provisions or applications of this Law which can be given effect without the
16 invalid provisions or application, and to this end the provisions of this Law
17 are severable.

KNOWLEDGEMENT RECEIPT

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
2000 (SECOND) Regular Session

9/30
8/15/00

Bill No. 472 (COR)

Introduced by:

J. C. Salas *JS*
K. S. Moylan *K*
L. F. Kasperbauer *LJK*

AN ACT TO ADD ARTICLES 2, 3 AND §34154 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*
3 finds that Public Law Number 24-116 provided guidelines for the support of
4 children on Guam. Contained within §13 of the law was a sunset provision
5 calling for certain sections of the legislation to expire on September 30, 1999.
6 Such provisions did in fact expire pursuant to law. In order to secure Federal
7 Funding, *I Liheslaturan Guåhan* intends that the provisions of law become
8 permanent at the recommendation of the Department of Law.

9 In order to curtail the ever growing disintegration of marriages and
10 relationships creating single parent households, as well as rectify an

1 ambiguity and inequity in the manner in which the Child Support Guidelines
2 are applied to parents electing to exercise joint and equal custody of their
3 children, *I Liheslaturan Guåhan* has also provided for such situations in §8 of
4 this Act.

5 "ARTICLE 2.

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

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

17 Section 34202. Definitions. As used in this Article:

18 (a) 'Administrative hearing' means a hearing conducted
19 in accordance with the Administrative Adjudication Law, 5 GCA
20 §§9100-9241.

21 (b) 'Compliance with an order of support' means the total
22 of a non-custodial parent's overdue and unpaid court ordered
23 current child support payments for which no payment has been
24 ordered thereon, or overdue and unpaid court ordered payments
25 on an arrearage, is not greater than three (3) months accrual from
26 the effective date of this Act or the date of the order pursuant to

1 which payments were to be made, whichever is later.

2 (c) 'Court order of support' means any judgment or order
3 for the support of dependent children, or for payments on an
4 arrearage arising out of failure to comply with such judgment or
5 order, issued by any court of Guam, another territory, or a State,
6 including an order in a final decree of divorce or judgment or
7 order issued in accordance with an administrative procedure
8 established by State or local law that affords substantial due
9 process and is subject to judicial review.

10 (d) 'Department' means the Department of Law, *unless*
11 otherwise expressly provided, or *unless* the context clearly
12 requires otherwise.

13 (e) 'Hearing officer' means a hearing officer within the
14 meaning of the Administrative Adjudication Law, 5 GCA §§9100-
15 9241.

16 (f) 'Licensing body' means any board, commission,
17 department, division, bureau or officer of the Island of Guam
18 authorized by law to grant, issue, renew, condition, limit, suspend
19 or revoke an authority, license, privilege or right to hunt, fish,
20 operate a motor vehicle or engage in a business occupation,
21 profession or industry.

22 (g) 'Non-compliance with an order of support' means the
23 total of a non-custodial parent's overdue and unpaid court
24 ordered current child support payments for which no payment has
25 been ordered thereon, or overdue and unpaid court ordered
26 payments on an arrearage, is *greater than* three (3) months

1 accrual from the effective date of this Act or the date of the order
2 pursuant to which payments were to be made, whichever is later.

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

6 **Section 34203. Notice of Proposed Action.**

7 (a) If a non-custodial parent is in non-compliance with a
8 court order of support, the Department may serve the non-
9 custodial parent with a notice of proposed action indicating its
10 intention to certify to a licensing body that has issued a license to
11 the non-custodial parent, that the non-custodial parent is in non-
12 compliance with a court order of support.

13 (b) The notice of proposed action shall inform the non-
14 custodial parent that the Department will certify the non-
15 custodial parent's non-compliance to the licensing body, *unless*,
16 within twenty (20) days of service of the notice of proposed action,
17 the non-custodial parent undertakes one of the following actions:

18 (1) files a petition for an administrative hearing, *or*

19 (2) files with the court a motion to establish
20 payments on an arrearage for which no payments have been
21 ordered, a motion to modify an order for payments on an
22 arrearage so as to encompass arrears for which no payment
23 had been theretofore ordered, or a motion to modify an
24 existing order for payments on the arrearage; *provided*,
25 payment on arrears has *not* been established or modified in
26 the previous two (2) years; *or*

1 (3) comes into compliance with the court order of
2 support, and is issued written confirmation of compliance.

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

6 (d) Service of the notice of proposed action must be made
7 by personal service or, if unable to locate the non-custodial
8 parent, then by certified mail, return receipt requested.

9 **Section 34204. Stay of Action.**

10 (a) *If* the non-custodial parent petitions for an
11 administrative hearing within twenty (20) days of service of the
12 notice of proposed action, the Department shall stay action to
13 certify the non-custodial parent to any licensing body for non-
14 compliance with a court order of support, until thirty (30) days
15 after the Department serves a decision after hearing that finds
16 the absent parent is in non-compliance with the order of support.

17 (b) *If* payment on arrears has *not* been established or
18 modified in the previous two (2) years, the Department shall stay
19 action to certify a non-custodial parent to a licensing body for
20 non-compliance with a court order of support for ninety (90) days
21 *if* the non-custodial parent files with the court and serves on the
22 Department, within twenty (20) days of the date the notice of
23 proposed action is served on the non-custodial parent, a motion
24 to:

25 (1) establish payments on an arrearage for which no
26 payments have been ordered; *or*

1 (2) modify an order for payments on an arrearage
2 so as to encompass arrears for which no payment has
3 theretofore been ordered, or to modify an existing order for
4 payments on the arrearage.

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

11 **Section 34205. Petition for Administrative Hearing.**

12 (a) A non-custodial parent may file a petition for an
13 administrative hearing after being served the notice of proposed
14 action.

15 (b) Upon receipt of the petition for hearing the
16 Department acquires jurisdiction of the non-custodial parent for
17 purposes of adjudication of the non-custodial parent's petition for
18 hearing under the Administrative Adjudication Law 5 GCA
19 §§9100-9241.

20 **Section 34206. Hearing.**

21 (a) An Administrative Hearing Officer shall conduct a
22 hearing petitioned for by the non-custodial parent pursuant to the
23 Administrative Adjudication Law 5 GCA §§9100-9241. Issues that
24 may be decided at the hearing shall be limited to whether:

25 (1) the non-custodial parent is required to pay child
26 support under a court order of support;

1 (2) the non-custodial parent is in compliance with a
2 court order of support;

3 (3) payment on arrears has been established or
4 modified in the two (2) years previous to the service of the
5 notice of proposed action;

6 (4) the non-custodial parent has been served with
7 more than two (2) notices of proposed action in the past five
8 (5) years.

9 **Section 34207. Decision After Hearing.**

10 (a) The Hearing Officer shall issue a decision after
11 hearing without undue delay. The decision must be based on the
12 hearing record only.

13 (b) The Department shall personally serve or send a copy
14 of the decision to the non-custodial parent by certified mail, return
15 receipt requested.

16 (c) The decision must inform the non-custodial parent of
17 the non-custodial parent's right to appeal in accordance with the
18 Administrative Procedure Act, 5 GCA §§9100-9241.

19 **Section 34208. Judicial Review.** A non-custodial parent
20 may appeal in accordance with the Administrative Adjudication Law, 5
21 GCA §§9100-9241, the Hearing Officer's decision with respect to
22 whether the non-custodial parent is obligated under a court order of
23 support to pay child support, whether the non-custodial parent is in
24 compliance with such an order, whether payments on arrears were
25 established or modified in the two (2) years previous to the service of
26 the notice of action, or whether the non-custodial parent has been

1 served with more than two (2) notices of proposed action in the past
2 five (5) years.

3 **Section 34209. Certification to Licensing Body.**

4 (a) The Department shall certify that a non-custodial
5 parent is in non-compliance with a court order of support, and file
6 that certification with a licensing body that has issued the non-
7 custodial parent a license *if*:

8 (1) the non-custodial parent has been served with a
9 notice of proposed action, the non-custodial parent has *not*
10 requested a hearing or filed a motion to establish or modify
11 payment on the arrearage within twenty (20) days of the
12 date of the notice of proposed action was served on the non-
13 custodial parent and the non-custodial parent is in non-
14 compliance at the expiration of the twenty (20) day time
15 period;

16 (2) the Department issues a decision after hearing
17 that the non-custodial parent is in non-compliance with a
18 court order of support, and the non-custodial parent has *not*
19 appealed within thirty (30) days of the date the decision is
20 mailed to the non-custodial parent;

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

23 (4) a motion to establish or modify payment on
24 arrears has been filed, but it has *not* been decided within
25 ninety (90) days of the date of the filing of the motion,
26 payment on arrears has been established or modified in the

1 previous two (2) years, or the motion to modify payment on
2 arrears has been denied.

3 (b) The Department shall send by certified mail a copy of
4 the certification issued under Subsection (a) of this Section to the
5 non-custodial parent.

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

24 **Section 34211. Written Confirmation of Compliance.** *If* a non-
25 custodial parent who is served with a notice of proposed action or is
26 certified to a licensing body subsequently comes into compliance with a

1 court order of support, the Department shall provide the non-custodial
2 parent and the licensing bodies with written confirmation that the non-
3 custodial parent is in compliance with this order within twenty-four (24)
4 hours of compliance.

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

14 **Section 34213. Suspension, Non-issuance and Non-renewal of**
15 **Licenses.** A licensing body shall suspend the license of a non-custodial
16 parent who has been certified as being in non-compliance with a court
17 order of support, and may *not* issue or renew the license of a non-
18 custodial parent who has been certified as being in non-compliance with
19 a court order of support or payment agreement, until the non-custodial
20 parent or the Department provides the licensing body with written
21 confirmation from the Department or the Superior Court of Guam that
22 the non-custodial parent is in compliance with the court order.

23 **Section 34214. Notice from Licensing Body.** A licensing body
24 shall notify a non-custodial parent certified by the Department to be in
25 non-compliance at least ten (10) days prior to denial or suspension, that
26 the non-custodial parent's application for issuance or renewal of a

1 license will *not* be granted or that the non-custodial parent's license has
2 been suspended because the non-custodial parent's name has been
3 certified by the Department as being in non-compliance with a court
4 order of support. A notice of suspension must specify the effective date
5 of the suspension, and that the suspension will continue in effect, or the
6 license will *not* be issued or renewed until the non-custodial parent
7 provides the licensing body with the Department's written confirmation
8 that the non-custodial parent is in compliance with the court order of
9 support.

10 **Section 34215. Subsequent Re-issuance, Renewal or Other**
11 **Extension of License.** After receipt of written confirmation of
12 compliance, a licensing body shall, within five (5) working days, reissue,
13 renew, or otherwise extend a license against which action had been
14 taken for non-compliance with an order for support. The re-issuance,
15 renewal, or other extension of the license after receipt of written
16 confirmation of compliance shall occur pursuant to the requirements of
17 the licensing body, *except* that the licensing body may waive any
18 applicable requirement for re-issuance, renewal or other extension *if* it
19 determines that the imposition of that requirement places an undue
20 burden on the non-custodial parent and that waiver of that requirement
21 is consistent with the public interest.

22 **Section 34216. Claim of Special Need.** A non-custodial
23 parent whose vehicle operator's license is suspended for non-
24 compliance with a court order of support may request the Department
25 to issue a written statement that permits the Director of the
26 Department of Revenue and Taxation to issue a temporary license

1 valid for a period *not to exceed* one hundred twenty (120) days. The
2 Department may grant such requests only upon a showing of medical
3 need or work requirement to obtain a temporary license and *only if* the
4 non-custodial parent demonstrates that person's intention to come into
5 compliance with the court order of support.

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

13 **Section 3.** Section 3101(h)(6) is hereby *added* to Article 1, Chapter 3 of
14 Title 16 of the Guam Code Annotated to read as follows:

15 "(6) Who has been certified by the Department of Law as being in
16 non-compliance with a court order of support, *unless* a confirmation of
17 compliance from the Department of Law or the Superior Court of
18 Guam is received by the Director of Revenue and Taxation."

19 **Section 4.** Section 3111(m) is hereby *added* to Article 1, Chapter 3 of
20 Title 16 of the Guam Code Annotated to read as follows:

21 "(m) The Director of Revenue and Taxation shall suspend the
22 privilege of any person to operate a motor vehicle upon a highway
23 upon receipt of a certification from the Department of Law that the
24 person is in non-compliance with a court order of support, such
25 suspension to remain in effect until a confirmation of compliance from
26 the Department of Law or the Superior Court of Guam is received."

1 **Section 5.** Section 3111(n) is hereby *added* to Article 1, Chapter 3 of
2 Title 16 of the Guam Code Annotated to read as follows:

3 “(n) At the request of a non-custodial parent whose operator's
4 license has been suspended for non-compliance with a court order of
5 support under Subsection (m) of this Section, the Director of Revenue
6 and Taxation may issue the non-custodial parent a temporary
7 operator's license valid for a period *not to exceed* one hundred twenty
8 (120) days.”

9 **Section 6.** Section 63131 is hereby *added* to Article 1, Chapter 63,
10 Division 6 of Title 5 of the Guam Code Annotated to read as follows:

11 “**Section 63131. Nonpayment of Child Support.** The Director
12 of Agriculture shall *not* issue or re-issue any annual hunting or fishing
13 license provided under this Article or regulations adopted under this
14 Article to any person upon receipt of a certification from the
15 Department of Law that the person is in non-compliance with a court
16 order of support, and shall suspend any such license in effect at the time
17 of receipt of such certification, with such suspension to remain in effect
18 until a confirmation of compliance is received from the Department of
19 Law.”

20 **Section 7.** Section 34102(j) is hereby *added* to Chapter 34, Division 3 of
21 Title 7 of the Guam Code Annotated to read as follows:

22 “(j) In any contempt action involving support, if the court finds
23 that a contempt occurred, the court may order the suspension of a
24 motor vehicle operator's license, a professional or occupational license,
25 or recreational license, or order denial of an application therefor, until
26 the contemnor purges that person's contempt in such manner as the

1 court directs.”

2 **Section 8.** Section 34154 is hereby *added* to Article 1, Chapter 34,
3 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

4 **“Section 34154. Joint and Equal, Legal and Physical Custody**
5 **Support Orders.**

6 (a) **Legislative Findings and Intent.** *I Liheslaturan*
7 *Guåhan* finds that the current child support guidelines are based
8 upon an absent parent, or non-custodial, formula. They do *not*
9 provide for joint or shared custody arrangements where both
10 parents incur their separate costs for child care during their equal
11 custody. The support guidelines also erroneously do not define
12 who is the “custodial parent” in joint custody arrangements.
13 *However*, many cases exist, and the trend increases, where both
14 parents agree to, or are awarded by the Courts, joint and equal,
15 physical and legal custody of their child or children, to the benefit
16 of children and our Community. *I Liheslaturan Guåhan* finds that
17 involvement and care by both parents fundamentally benefits the
18 welfare and healthy development of the child and our
19 Community, and reinforces the Fundamental Right to raise one’s
20 children, protected by the U.S. Constitution and the 1950 Guam
21 Organic Act. *I Liheslaturan Guåhan* wishes to promote and
22 encourage this social and societal good, especially in the face of
23 the ever increasing disintegrating marriages and relationships on
24 Guam. Promoting and encouraging the joint care of our children
25 by their parents will improve and better socialize our next
26 generation of young adults, who are increasingly coming from

1 broken homes. If the parents cannot live as a traditional nuclear
2 family, then the children are better off having both parents in their
3 lives separately versus not at all.

4 In joint custody cases each parent bears *equal* financial
5 responsibility for caring for the educational, physical and
6 emotional needs of their children while in that parent's custody.
7 The application of the child support guidelines in joint custody
8 situations unfairly discriminates against the parent earning the
9 greater income, especially when both parents are earning what is
10 considered "middle income" or higher income amounts. Applying
11 the child support guidelines in joint custody cases improperly
12 misconstrues child support into alimony or palimony.

13 Recent Superior Court of Guam decisions likewise
14 recognize the deficiency in the child support guidelines with
15 respect to situations involving joint and equal, legal and physical
16 parental custody and apply "equity," acknowledging the
17 deficiency in the child support guidelines. However, what is
18 equitable differs between persons and judges. *I Liheslaturan*
19 *Guåhan* also intends to create a "safety net" for preventing poor
20 living conditions for a child in joint custody arrangements by
21 permitting court ordered support by one parent *only* when one
22 parent is eligible for and receives Federal welfare support.
23 Further, this Section shall only apply when "actual" custody is
24 exercised between the parties, otherwise the child support
25 guidelines shall apply. Finally, without *I Liheslaturan Guåhan*
26 setting maximum ceilings for each parent's income before child

1 support is warranted in joint and equal, legal and physical custody
2 situations, court awards will be unevenly or unfairly applied by
3 varying courts, and promote forum or judge shopping.

4 (b) Notwithstanding any other provision of law,
5 including the child support guidelines, in the event that a Court
6 orders permanent *or* temporary, joint and equal legal and
7 physical custody to the parents of a child, or children, neither
8 parent shall be entitled to receive child support from the other
9 parent if *actual* joint physical custody is exercised and *if* the Court
10 determines that the income received by each household is
11 sufficient to support the children which are the subject of the
12 custody order at an appropriate moderate standard of living
13 while the children reside in each household without financial
14 support from the other parent. In such cases the Court may only
15 make orders for the *equal* sharing of actual costs between the
16 parents in strictly *equal* amounts to include education, medical
17 and dental, orthodontic, psychiatric, psychological or other
18 *extraordinary* expenses *not* related to their separate care of the
19 child or children. In the event that a parent applies and qualifies
20 for Federal welfare assistance or is unable to provide the children
21 with a sufficient moderate standard of living without financial
22 support from the other parent, the Court may order a temporary
23 or permanent support amount solely for the welfare of the child,
24 or children, *if* the children's living conditions warrant, for the
25 duration that the parent is eligible for and receives Federal
26 welfare assistance. In no event may any court calculate the child

1 support obligation of any parent pursuant to any child support
2 guidelines, by considering any income of any parent exceeding
3 Seventy-five Thousand Dollars (\$75,000.00) per annum.

4 This Section shall apply to *all* existing and future,
5 temporary or permanent Court orders for child support,
6 stipulated or otherwise. A parent exercising temporary or
7 permanent, joint and equal, legal and physical custody of their
8 child, or children, may move for modification of an existing Court
9 order based upon this Section, but in no case may receive
10 reimbursement for past support paid or due."

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

13 **"ARTICLE 3.**

14 **NEW HIRE DIRECTORY.**

15 **Section 34301. Definitions.** As used in this Article:

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

17 (1) the first day for which an employee is owed
18 compensation by an employer; *or*

19 (2) the first day that an employee reports to work or
20 performs labor or services for an employer.

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

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

1 (d) 'Independent Contractor' means a person who
2 performs services for remuneration for another person who does
3 not have the right to control and direct the person in the
4 performance of such service, but is liable in contract to that other
5 person for the results attained through such service.

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

10 (1) if the person for whom the individual performs
11 the services does not have control of the payment of the
12 wages for such services, the term 'employer' means the
13 person having control of the payment of such wages, *and*

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

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

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

1 **Section 34303. Duty to Report.**

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

7 (b) An employer is *not* required to report to the Director
8 of New Hires the hiring of any person who will:

9 (1) be employed for less than three (3) months
10 duration;

11 (2) have gross earnings of less than Three-hundred
12 Dollars (\$300.00) per month;

13 (3) be employed intermittently, such that the
14 employee will be paid for less than three hundred and fifty
15 (350) hours during a continuous six (6) month period.

16 **Section 34304. Penalty.**

17 (a) An employer who:

18 (1) fails to file reports as required by the
19 Department of Law, Family Division and has *not* previously
20 received a written notice of non-compliance, shall receive
21 written notice of non-compliance;

22 (2) fails to file reports as required by this Chapter
23 and has previously received written notice of non-
24 compliance, is subject to a civil penalty of Twenty-four
25 Dollars (\$24.00) for each intentionally unreported employee,
26 *except* that the penalty shall be Four Hundred Ninety-nine

1 Dollars (\$499.00) for each intentionally unreported
2 employee *if* the failure to report is the result of a conspiracy
3 between the employer and the employee *not* to supply the
4 required report or to supply a false or incomplete report.

5 (b) The written notice of non-compliance furnished under
6 (a) of this Section shall request that the employer comply with the
7 reporting requirements of this Article, and advise the employer of
8 the penalty for non-compliance.

9 **Section 34305. Means to Report.**

10 (a) Employers may report by delivering, mailing, or tele-
11 faxing a copy of the employee's Federal W-4 form or W-9 form or
12 any other document that contains the required information,
13 transmitting the required information by electronic or magnetic
14 means in a compatible format, or by other means authorized by
15 the Director of the Department of Law that will result in timely
16 reporting.

17 (b) *If* an employer transmits information magnetically or
18 electronically, the employer shall submit the report:

19 (1) twice a month, *and*

20 (2) *not less than* twelve (12) days or more than
21 sixteen (16) days apart.

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

26 **Section 34306. Information Required to Be Reported. Reports**

1 required under §34303 of this Chapter must contain:

2 (1) the employee's name, address, social security number,
3 and date of birth when available, which can be handwritten or
4 otherwise added to the W-4 form, W-9 form or other document
5 submitted; *and*

6 (2) the employer's name, address, and federal
7 identification number.

8 **Section 34307. Access to and Disposition of Data.**

9 (a) The Director of New Hires shall destroy information
10 supplied by employers relating to the hiring of employees six (6)
11 months after the information is supplied to it. Data contained in
12 the Directory of New Hires shall be disclosed only to the Family
13 Division in the Office of the Attorney General, and other Guam
14 and Federal agencies as authorized by Federal law.

15 (b) Within three (3) working days after the data
16 information is reported to the Department of Law's Director of
17 New Hires, the Department of Law shall furnish the information
18 to the National Directory of New Hires.

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



Mina Bente Singko na
Liheslaturan Guahan

SENATOR JOHN CAMACHO SALAS CHAIRMAN

COMMITTEE ON JUDICIARY, PUBLIC SAFETY, CONSUMER PROTECTION AND HUMAN RESOURCES DEVELOPMENT

SIGN IN SHEET

Bill Number **472**

Wednesday, August 16, 2000

Title AN ACT TO ADD ARTICLES 2, 3 AND §34154 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON

Name **Title**

Daniel Sanchez Person Attorney

Joni LAVILLE

ATTORNEY CURTIS LANDEVERD PRIVATE CITIZEN / ATTORNEY

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CARL T.C. GUTIERREZ
Maga'láhi
Governor

MADELEINE Z. BORDALLO
Tiñente Gubetnadora
Lt. Governor



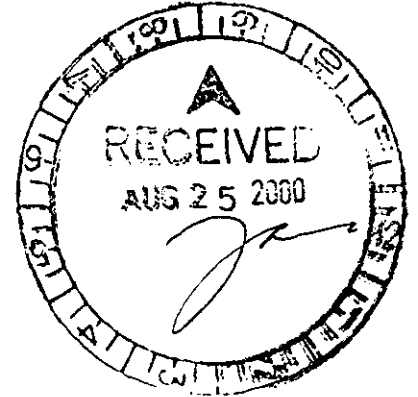
Ufisinan Hiniráť Abugao
Hagátña, Guáhan
Office of the Attorney General
Hagátña, Guam

JOHN F. TARANTINO
Hiniráť Abugao
Attorney General

ROBERT H. KONO
Atkádi Sigundo
Chief Deputy

August 25, 2000

Senator John Camacho Salas
Chairman, Committee on Judiciary, Public Safety,
Consumer Protection, and Human Resources Development
25th Guam Legislature
777 Sinajana Commercial Building, Route 4, Suite 5
Sinajana, Guam 96926



Re: Testimony in Opposition to the Passage of Bill 472, an Act
Relative to the New Hire Directory and License Suspension of
Child Support Obligors, and to Changing the Guidelines for the
Support of Guam's Children

Dear Senator Salas:

Buenas. I was unable to adequately review and prepare my testimony in time for the public hearing held on August 18, 2000 concerning Bill 472, but would like to take this opportunity, within the ten-day limit to submit written testimony, to inform you of my position and the consequences of the passage of the bill should it become law.

As you may recall, my office vehemently objected to Bill 449, the predecessor of nearly identical Bill 472, notably on the basis of the addition of new §34154 to Title 5 of the Guam Code Annotated, as the addition would violate federal child support guidelines. My office's Family Division had drafted the contents of Bill 449 to meet all federal requirements concerning the New Hire Directory and license suspension of delinquent child support obligors, except that the offending §34154 concerning joint custody had been added to our draft.



Commonwealth Now!

Letter to Senator John Camacho Salas
August 25, 2000
Page 2 of 3

Therefore, the Governor was forced to veto Bill 449 on the basis of the addition of §34154, and I had hoped that the Legislature would be enlightened thereby as to the serious flaws in Bill 449 caused by the joint custody provision. Without implementation of the New Hire Directory and license suspension provisions in the very near future, Guam's State Plan's revocation is soon forthcoming, as implementation of these provisions was supposed to have been completed by 1997. However, if the joint custody provision is enacted into law, the Federal Regional Office overseeing Guam's child support program has indicated that our funding would be terminated immediately.

Upon review of this latest bill, I find to my dismay that not only has new §34154 on joint custody been retained in the bill, but that in fact it has been strengthened with legislative intent and other language.

Simply put, and let me quote directly from the person who will be recommending disapproval of Guam's State Plan, Mr. J. P. Soden of the Federal Administration for Children and Families, Office of Child Support Enforcement, Region IX, "THE BOTTOM LINE FOR ME IS AGAIN THAT THIS JOINT CUSTODY LANGUAGE VIOLATES FEDERAL AUTHORITY." Please see Exhibit A (an e-mail message from Mr. Soden) enclosed. "IF THE LEGISLATION IS SIGNED INTO LAW BY THE GOVERNOR, I'D HAVE NO RECOURSE BUT TO CONSULT WITH MY OCSE/CO POLICY STAFF. I BELIEVE THAT THE END RESULT OF THE DISCUSSION WOULD BE A REGIONAL RECOMMENDATION TO DISAPPROVE GUAM'S STATE PLAN." Please see Exhibit B (another e-mail message from Mr. Soden) enclosed. I have also enclosed Exhibits C and D (two other e-mail messages from Mr. Soden) which explain the violations of federal law in detail.

If Guam's State Plan is revoked, My Child Support Division's services will be greatly compromised, as this division is 66% federally funded, but let me emphasize that funding for my office is not my chief concern. Ultimately, Guam's children who are in need of both of their parents' financial support will be the ones who will suffer.

Bill 472 essentially lowers the standard of living for Guam's children who are the subject of joint custody arrangements or who have parents with income exceeding the cap set out in Bill 472. The stated purpose of Bill 472 is to "encourage payment of child support to decrease overall costs to the Guam taxpayers while increasing the amount of financial support collected for Guam's children." These stated purposes, however, are not served at all by the bill as written. Not only will the overall amount of financial support collected for Guam's children be decreased substantially, but ironically, Bill 472 has the practical effect of requiring lower income parents to pay child support while permitting more affluent counterparts to avoid child support.

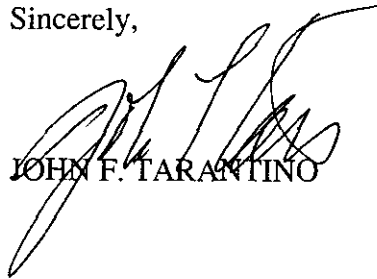
Generally, the primary goals behind child support guidelines are (1) to make sure that the divorce does not further disrupt the child's life by abruptly changing the child's standard of living, and (2) to allow the child of a well-to-do parent to share in such parent's high standard of living. Bill 472 will change both of these premises diametrically.

Letter to Senator John Camacho Salas
August 25, 2000
Page 3 of 3

Finally, a rather obvious equal protection problem is raised by the joint custody provision. Bill 472 prohibits the collection of child support in joint custody cases where neither of the parents is on public assistance but permits the collection of child support in cases where one parent is on public assistance. Thus, two classes of parents are created making Bill 472 constitutionally unsound.

My office has been assured that no further warning letters will be issued by the Regional Office before our funding is terminated. Therefore, please give serious consideration to the issues presented by Bill 472. *Dangkolo na agradesimiento.*

Sincerely,



JOHN F. TARANTINO

Enclosures (Exhibits A - D)

cc: Senator Antonio R. Unpingco, Speaker
Senator Frank B. Aguon, Jr.
Senator Eulogio C. Bermudes
Senator Anthony C. Blaz
Senator Joanne M. S. Brown
Senator Eduardo B. Calvo
Senator Marcel G. Camacho
Senator Mark Forbes
Senator Lawrence F. Kasperbauer
Senator Alberto C. Lamorena
Senator Carlotta Leon Guerrero
Senator Kaleo S. Moylan
Senator Vicente C. Pangelinan
Senator Simon A. Sanchez II

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From: <jsoden@acf.dhhs.gov> (JP Soden) [Save Address](#) - [Block Sender](#)
Reply-To: <jsoden@acf.dhhs.gov>
To: <DianeBlas@hotmail.com> , <JTino@mail.gov.gu> [Save Address](#)
Subject: Bill 472
Date: Wed, 16 Aug 2000 10:33:34 PDT

GREETINGS JOHN & DIANE -

I STILL HAVE MAJOR PROBLEMS WITH THE JOINT CUSTODY PROVISION LANGUAGE.

I RESPECTFULLY SUGGEST THAT SENATORS SALAS, MOYLAN AND KASPERBAUER (AND YOUR STAFF IF THEY HAVE NOT DONE SO ALREADY) READ ACTION TRANSMITTAL OCSE-AT-91-02, DATED MAY 15, 1991. IT'S AVAILABLE FROM THE ACF/OCSE WEB SITE. THIS DOCUMENT SPEAKS TO/DETAILS THE IMPLEMENTATION AND APPLICATION OF THE CHILD SUPPORT GUIDELINES AND THE REBUTTABLE CRITERIA.

THERE MAY BE NO EXCLUSION OF INCOME ABOVE CERTAIN LEVELS IN APPLYING THE GUIDELINES. THE REBUTTABLE CRITERIA CAN BE CONSIDERED BY THE TRIBUNAL IF IT IS DETERMINED THAT THE AMOUNT OF CHILD SUPPORT COMPUTED PER APPLICATION OF THE GUIDELINES WOULD BE UNJUST OR INAPPROPRIATE. THIS WOULD BE ON A CASE-BY-CASE BASIS. THE FEDERAL AUTHORITY HERE DOES NOT PROVIDE FOR A "BLANKET" EXCLUSION OR INCOME "CAP" FOR INCOME ABOVE A CERTAIN LEVEL. THE GUIDELINES WERE DEVELOPED TO ADDRESS THE BEST NEEDS OF THE CHILD, NOT THE BEST NEEDS OF THE PARENTS.

I AGAIN MAINTAIN THAT THIS ISSUE BE ADDRESSED WITHIN THE CHILD SUPPORT GUIDELINES AND NOT FROM A "3RD PARTY" PERSPECTIVE. YOU CANNOT LEGISLATIVE WHAT THE CHILD SUPPORT AMOUNT WILL BE WITHOUT APPLICATION OF THE GUIDELINES. FURTHER, ANYBODY CAN APPLY FOR CHILD SUPPORT - YOU CANNOT DENY AN INDIVIDUAL HIS/HER RIGHT TO APPLY FOR AND RECEIVE CHILD SUPPORT SERVICES NOR CAN YOU TREAT WELFARE CASES DIFFERENTLY THAN NON-WELFARE CASES.

I HOPE THAT THIS SECTION CAN BE DELETED FROM THE BILL. I CAN SEE NO REASON WHY THE JOINT CUSTODY CONCERNS CITED CANNOT BE INCORPORATED IN THE REVIEW OF GU'S CHILD SUPPORT GUIDELINES WHICH I WOULD HOPE IS GOING ON NOW; FEDERAL AUTHORITY REQUIRES THAT STATES REVIEW THEIR GUIDELINES EVERY 4 YEARS AND UPDATE THEM AS APPROPRIATE. GU'S LAST GUIDELINE WERE DATED 1996.

THE BOTTOM LINE FOR ME IS AGAIN THAT THIS JOINT CUSTODY LANGUAGE VIOLATES FEDERAL AUTHORITY.

REGARDING THE REST OF THE BILL, I HOPE TO COMPLETE MY REVIEW BY THE END OF THE DAY AND FORWARD COMMENTS TO YOU AND/OR DISCUS WITH YOU LATER TODAY ON OUR SCHEDULED CALL.

FYI - I WILL BE OUT OF THE RO FROM TOMORROW/THURS THRU MONDAY, RETURNING TO THE RO ON TUES/22 AUG.

I THANK YOU FOR THE OPPORTUNITY TO REVIEW AND COMMENT.

Exhibit A

.../getmsg?disk=216.33.240.69_d1291&login=dianeblas&f=37888&curmbox=ACTI 8/23/00

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msn. 

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JP SODEN and IVD

From: <jsoden@acf.dhhs.gov> (JP Soden) [Save Address](#) - [Block Sender](#)

Reply-To: <jsoden@acf.dhhs.gov>

To: <KathyMaher@hotmail.com> [Save Address](#)

Subject: Additional thoughts

Date: Wed, 28 Jun 2000 15:30:54 PDT

MIME-Version: 1.0

Received: from [158.71.1.11] by hotmail.com (3.2) with ESMTMP id MHotMailBB23CBA6001AD820F3969E47010B0B070; Wed Jun 28 15:48:06 2000

Received: by acfsmtp.acf.dhhs.gov with VINES-ISMTMP; Wed, 28 Jun 2000 18:48:05 EDT

From jsoden@acf.dhhs.gov Wed Jun 28 15:49:44 2000

Message-ID: <vines.Cc1E+zIbKtA@acfsmtp.acf.dhhs.gov>

X-Priority: 3 (Normal)

Errors-to: <jsoden@acf.dhhs.gov>

X-Incognito-SN: 458

X-Incognito-Version: 5.0.1.93

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Kathy -

As a follow-up to my e-mail to you of earlier today and our discussion of today re: the "joint custody vs child support" issue, I feel that if the legislation is signed into law by the Governor, I'd have no recourse but to consult with my OCSE/CO policy staff. I believe that the end result of the discussion would be a Regional recommendation to disapprove Guam's State Plan.

Providing child support services to welfare recipients/applicants and to non-welfare recipients/applicants upon application is a basic requirement of the IV-D program/State Plan. You cannot favor one category of individuals over another in terms of who may or may not apply or receive services. Any one in need of child support has a right to apply to the IV-D agency or retain private counsel as they choose.

Denying child support in existing and new cases where joint custody is established will result, I believe, in increasing the welfare caseload and that has never been the intent of the IV-D program.

Further, the child support program does not discriminate against obligors who earn a high income. It just means that such individuals have an enhanced ability to support the child(ren) in question. If there was an intact family, the child(ren) would benefit from both parents' salaries. Should there be any difference when one parent leaves the home? Guam's child support guidelines require both parents' income/finances to be taken into consideration when calculating the child support award.

I am available to discuss this matter further with you and John Tarantino at your earliest convenience.

JP

Exhibit B

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Reply-To: <jsoden@acf.dhhs.gov>
To: <ag_spc1@yahoo.com> , <DianeBlas@hotmail.com> , <JTino@mail.gov.gu> [Save Address](#)
Subject: **Bill 472**
Date: Wed, 23 Aug 2000 12:02:56 PDT

Greetings -

Based upon my re-review of this proposal, the following are provided:

1. Article 2/Action Against Licenses for failure to pay Child Support has to cover all entities on GU that issue a license...drivers, professional and occupational, recreational and sporting licenses. Such appears to be covered under your definition of "Licensing Body" at Section 34202(f). If such is NOT the case, then please amend the proposal to ensure that all licensing entities are included.
2. Under Section 34202(b), the language speaks to compliance with an order for which "no payment has been ordered." Would not the issuance of an order automatically require payment? I don't understand the language re: "no payment has been ordered." Clarification is requested.
3. Under 34202(c), the language speaks to orders being subject to judicial review. Are we also including orders subject to administrative review as well? Are administrative review actions barred?
4. Under 34202(g) we speak to non-compliance using the same language as before..."for which no payment has been ordered." Again, the wording is confusing and clarification is requested. Please see also the same language under 34203(b)(2), 34204(b)(1) and (2).
5. Under 34206, are we speaking to the duties of Linda Ingles or the establishment of a separate hearings division with the office of the AG? Clarification is requested.
6. Under Section 34210 we speak to compliance by payment of all overdue amounts since the effective date of the Act. What of the overdue payments existing prior to the act?
7. Under Section 34215 we speak to undue burden on the non-custodial parent. How is this being defined? What are the criteria?
8. Under Section 34216, the language speaks to the non-custodial parent's intention to come into compliance. Is this in reference to the language at Section 34210? Clarification is requested if such is NOT the case.
9. Section 34217 speaks to the reduction of arrears to a judgment. Please know that Federal authority states that child support is a judgment by operation of law on the date the payment is due. While I realize that States may adjudicate arrears into a summary judgment, there is no real need to do

Exhibit C

[http.../getmsg?a=b&msg=MSG967065451.3&start=1410716&len=5293&mfs=138](http://getmsg?a=b&msg=MSG967065451.3&start=1410716&len=5293&mfs=138) 8/24/00

that unless the amount of past due support is contested.

10. Under Section 34102(j) we need to include wording that speaks to sporting licenses unless such is somehow included under recreational licenses. Also this section speaks to suspension of licenses in contempt actions. Federal authority at section 466(a)(16) of the Act speaks of license suspension...for failure to comply with subpoenas or warrants relating to paternity or child support proceedings. Does this section include paternity or just post paternity proceedings? If it doesn't then the language needs to be amended to include paternity proceedings.

11. I've already provided numerous comments/feedback re: the joint custody issue and again ask that the issue be addressed within the review of GU's child support guidelines.

12. Regarding the New Hire Directory proposal...

A. Under section 34303, there is no exclusion permitted under Federal law for the type of hires cited under (b). Please delete this provision from the proposal.

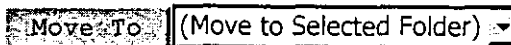
B. Under 34307, there is no provision under Federal authority to permit the destruction of new hire information within a 6 month period. Please delete this provision from the proposal. Also when speaking of sharing information, please include a reference to sharing the information with other State IV-D agencies as they are authorized to have access to such information per Section 466(c)(1)(C) and (D) of the Social Security Act.

C. In reviewing the Federal New Hire authority, I did not see where GU addressed the following requirements of section 453A of the Act with respect to:

- i. Multistate employers - 453A(b)(1)(B)
 - ii. Entry of data into the GU New Hire Directory within the time frames cited at 453A(e)
 - iii. Information comparisons as required at 453A(f)(1) and (2). (As the New Hire Directory will be located with the AG office, I expect that the match process will be fairly straight forward but we still need to know that it will occur.)
 - iv. Transmission of withholding notices to employers per 453A(g)(1).
 - v. Defining a business day per 453A(g)(3)
 - vi. The other uses of the NH data as required at 453A(h)(1), (2) and (3).
- The above missing elements need to be incorporated into GU's proposal.

I thank you for the opportunity to re-review your legislative and provide comments. I'm available should you have questions and/or wish to discuss.

JP



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JP SODEN and IVD

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Kathy -

I reviewed pages 16 & 17 of the legislation you faxed me last night and it does violate the Federal authorities under both the Social Security Act (Act) and the Federal regulations at 45 CFR. Specifically:

1. Section 454(4)(A)&(B) provides that the State Plan shall require the State to provide child support services to any individual who is receiving assistance (except perhaps for good cause) or to any one who is not a recipient of assistance and who applies directly for such services. You cannot preclude an individual from applying for services. Legislating that welfare recipients are eligible for child support while non-welfare recipients are not violates the foundation of providing equal treatment for both types of individuals, welfare and non-welfare.

2. Section 454(25) states that once a family no longer is eligible to receive welfare, the child support services continue automatically without the need for the individual to file an application for services. Legislating that a former welfare recipient is now ineligible to continue to receive child support services violates this section of the Act.

3. Section 467 of the Act further states that the child support guidelines are to be used in the establishment of child support awards and be made available to decision makers...in short the guidelines are to be used to establish child support awards in all cases. It is the decision of the tribunal, and not the legislature, as to the amount of child support that is to be awarded based on the application of the guidelines given the financial resources of the parents involved. Guam's child support guidelines (State Plan Section 3.11) use a shared income formula. Both Parents' gross incomes are to be used to determine the amount of child support to be paid. I would have to think that it would be an EXTREMELY rare case in which both parents had the same exact income and resources. In such a situation perhaps the child support might be \$ 0 but that is up to the tribunal to determine, not the legislature.

Exhibit D

child should receive the same proportion of parental income that he/she would receive had the parents lived together. I have to expect that in the language stated on pages 16 & 17 that we are speaking to joint custody but there is no longer an intact family.

Application of the guidelines will permit Guam's tribunal to establish an amount of child support that would be paid by one parent to the other. Denying the application of the guidelines would mean that one party who earned more than the other would not have to pay his/her fair share based on their financial ability. This, to me, violates the foundation of the guideline's principles. Such a position does not provide for the appropriate sharing of financial responsibility for the support of the child(ren).

4. Denying, retroactively and prospectively, child support in joint custody arrangements may force families to apply for welfare and that is exactly what child support is trying to avoid. Child support is a mechanism to reduce or preclude welfare dependency.

The language as stated would look to vacate all prior court orders for child support. Only a tribunal (court or admin process) with subject matter and personal jurisdiction over the order can modify and/or vacate the order. Such is an issue for a tribunal to decide, not the legislature. Have you discussed this issue with Linda Ingles?

Looking at the Federal regulations at 45 CFR:

1. 302.10 requires that the State Plan shall be in operation statewide in accordance with EQUITABLE STANDARDS for administration that are MANDATORY throughout the State. Guam's language as stated on pages 16/17 violates this authority.

2. 302.33 provides for the provision of child support services to those who apply for services or are referred as recipients of assistance. Again, you cannot deny or preclude an individual from applying for or be referred for services (except for good cause in welfare related cases).

For my analysis, I can't find where the language conforms to the Federal authority in any matter. Enactment of such authority will place GU out of compliance with the Federal authorities cited about and may cause further actions to be considered related to its existing State Plan.

It is the IV-D agency that determines what services are appropriate to the individual applying for or referred for services. It is not the responsibility of the legislature to dictate who can and cannot apply and/or be provided child support services.

I urge your office and the Attorney General to work with the Guam legislature to reverse/delete this language.

Please know that I did not review any other portion of the legislation faxed to me last night.

I thank you for the fax and look forward to speaking with you and the AG soon regarding this matter.

JP

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TESTIMONY SUPPORTING BILL 472.

Good afternoon Senators. For the record my name is Douglas Moylan appearing at this public hearing as a private citizen and exercising my Constitutional Freedom of Speech Rights. I have not rendered any legal advice to this Committee nor its Chairman on these legislations, and previously advised the Speaker in writing that I have and will not be rendering any legal advice on Bill Number 449, nor its predecessor Bill Number 472, and am not acting as counsel for the Guam Legislature. The Committee Chairman has asked that I express my views having experience in Family Court cases.

I have a degree from the University of Notre Dame (South Bend, IN) in Sociology and am a member of the Bars in California, Guam and Washington, D.C. I have been in the private practice of law since 1993 and have handled many Family Court cases before the Superior Court of Guam.

My testimony addresses three (3) issues, *specifically*,

1. licensing penalties for non-payment of child support;
2. joint custody support orders; *and*
3. rebuttable presumptions of joint and equal custody in the law.

I.
LICENSING PENALTIES.

Although I support the joint and equal support provision within the bill, I strongly disagree with Bill Number 472's penalty to suspend or revoke government licenses. There are other better and more effective methods to enforce child support orders on Guam. I understand that the Department of Law asserts that *if* Guam does not incorporate the licensing provisions, that Guam will lose Federal monies.

Before endorsing the Department of Law's position, I suggest some unanswered questions must be answered, such as how much money will be lost, what is the minimum licensing penalty Guam can pass into law to receive Federal funding, why hasn't the Department of Law and the Governor reported the prior performance of this program pursuant to §13 of Public Law Number 24-116 (**Exhibit 1**); has the Department of Law properly accounted for and managed the Federal money received when the 24th Guam Legislature enacted the licensing provisions, and does Guam even want the Federal money with such a Draconian method of enforcing child support?

I recommend as an alternative that Guam increase the penalty for non-payment of child support by making it a crime punishable by fine and/or imprisonment. Also, enacting and increasing a judge's powers for contempt of child support orders, as well, gives the judge the additional power to severely penalize non-paying parents. Taking away one's license prevents people from earning money to make child support payments, such as when a driver's license or professional license is revoked. It also is a short-sighted fix that fails to encompass all persons under an order to pay child support, such as those who don't hold any

government licenses. Taking away one's liberty is a more effective tool than taking away a license, and sends a stronger message to comply with a child support order.

The U.S. Constitution and Organic Act requires that life, liberty or property *not* be deprived without due process of law. A license is a property right, and sometimes privilege depending upon the type of license. In the present case, Bill Number 472 does *not* provide sufficient due process protections before a license is revoked or suspended. I suggest that the bill's due process procedures and the state of mind requirements (*scienter*) be increased to a willful and intentional standard before revoking or suspending a license. Further, having the AG's Office, who often secures a child support order, as the reviewing body who can revoke the license is an inherent conflict of interest prejudicing one's right to fair procedures.

Throwing a parent behind bars after it is determined by a court that a violation occurred is *more* effective in modifying behavior than taking an income producing license and placing that person on our overburdened welfare roles.

The Legislature should not overreact to "emergency" lobbying by the Department of Law. Its representatives must appear before this Committee and explain why their Office did *not* comply with §13 of Public Law Number 24-116 by (a) reporting to the Legislature, (b) providing the report required under the law, (c) explaining the minimum requirements for obtaining Federal funding *and* (d) whether making the non-payment of child support a crime would satisfy the Federal requirement for support.

II. JOINT & EQUAL CUSTODY SUPPORT ORDERS.

Current Guam law does *not* fairly, nor clearly, provide for joint and equal, actual and physical custody situations. There are several facets for this issue, including (a) financial, (b) societal and (c) behavioral dimensions.

(a) Financial Disparity.

The child support guidelines are premised on an “absent parent” or “non-custodial” formula. This is fine when you have sole custody situations, *however*, for parents exercising joint custody, there is NO ABSENT PARENT. Both parents exercise custody and incur their own, separate related expenses ½ time of the year. The support guidelines are best fitted for sole custody situations when one (1) parent bears the greater financial responsibility because of their sole or primary care giving and the related expenses. The only reference to joint custody is within §9 which misconstrues and mangles a guideline primarily designed for sole custody to joint custody. **Exhibit 2.** The provision even unfairly places the burden of offsetting a sole custody financial burden upon the custodial parent to prove he or she is paying expenses while the child is in his or her custody. This is clearly inequitable and unfair.

Incidentally, I understand that the current Child Support Guidelines, although passed under the Administrative Adjudication Law, did not receive debate on the legislative floor, but passed into law by inaction of the legislature.

The child support guidelines are best characterized as a “one size fits all” type guideline, but which creates financial unfairness to the higher income

producing parent for joint custody situations. The guidelines wrongly transform “child support” into “spousal support” when joint custody is applied, since the expenses for the care of a child is no longer the focus but that of distributing income. In joint custody situations each parent bears equal financial responsibilities for their actual caring for the child during their custody.

Child support is NOT alimony or spousal maintenance. These legal theories are separate concepts and have a different body of law to determine whether they are appropriate. *However*, the guidelines subtly convert child support into alimony when joint custody is exercised, where no rational nexus exists between the amount paid the non-paying parent when the same costs are borne by the paying parent.

An argument is often proffered in support of the Guidelines that the children should not be exposed to disparate living conditions, or after the break up in the relationship that the children no longer have access to the same “pot” of resources they otherwise would have had access to if the parents were still together. In fact when the guidelines are applied to parents in joint and equal custody situations you have this exact negative effect. The paying parent, who has a higher income, not only must pay the non-paying parent “child support,” but must also make payments for expenses related to that persons care of the child while in his or her custody, ½ of the year, making it harder to live for the paying parent and support the child. They are also normally taxed at a higher rate when in fact their actual disposable income is going not to the child’s care but to the non-paying spouse parent. In sum less money and resources is available to parents exercising joint custody under the present guidelines.

Further, the Guidelines *unrealistically* assume that the money paid to the non-paying parent will be used to better the living conditions for the child from this “pot” of income of both parents, when in fact there is no mechanism to ensure this occurs. It also deprives and ignores a parent’s wish that the child not be lavished with an expensive lifestyle, but be rewarded when the child’s performance pleases the parent.

There are exceptions to any situation, *however*, I agree that Bill Number 472 provides an adequate ceiling, which is \$75,000, and floor, a welfare exception, to avoid disparities and the inevitable exceptions to the rule. Further, it leaves discretion to the Judge to determine if a moderate standard of living warrants some support to be paid, as well as requiring an equal contribution for extraordinary expenses.

(b) Societal Benefits.

Children are better off when they have both their parents in their lives. Bill 472 furthers this interest and has several benefits to our Community. Encouraging joint and equal custody of our children makes them better people for the next generation. I’ve seen studies monitoring children from broken homes conducted over decades which are now proving that divorce and broken relationships adversely impact their children’s personalities and behaviors, making them prone to criminal behavior, promiscuity and not seeking higher education.

There is no substitute for a nuclear family and our laws should and do encourage this form of relationship. *However*, for the ever increasing situations when children are the victims of splintering relationships, Guam law should encourage, and not discourage, fathers and mothers to seek to continue to be

involved in their kids lives. Changing the guidelines to properly reflect a credit to each party for their joint custody expenses is a critical first step, since financial stability after a breakup is foremost on the minds of clients I've represented. Parents, and usually fathers, oftentimes see no financial advantage to caring for their children versus paying a flat support amount, which causes them to wish to spend their time earning and saving more money to stabilize their lifestyle. By modifying the support guidelines to reflect the expenses that a parent will pay any ways for his, or her, actual care, will have the net effect of encouraging the fathers to be with their children.

Fighting and arguing in Court will also diminish. If parents realize that there is no financial incentive to gain sole custody, and the law firmly presumes joint custody, marriages and relationships may *not* be as prone to dissolve. Parties will *not* be inclined to litigate matters when there is no financial incentive. If anything, parents will defend their ½ custody rights vigorously, having the net effect of them becoming better parents and actually participating in raising their children, all to the benefit of Guam now and in the future.

(c) Behavioral Modifications.

All behavior is learned and socialized. Although in the past women were more likely to stay at home and raise the family's children, thereby developing refined parenting skills and repore with the kids, today life oftentimes requires a two (2) income household to pay the bills. Fathers are receiving just as much exposure as mothers are to their children, and both parents are having to depend on each other more to raise their kids in their hectic lives. Parental maternity and paternity leave is now enacted into Guam law, and throughout many other

jurisdictions. Corporations likewise afford leave time for the care of their workers' kids after birth, and a move towards the home-office is becoming more popular to increase productivity and maintain balance within worker's families.

If the legislature passes Section 8 of Bill Number 472, you will see more fathers wanting to spend their money not on child support paid to another party, but to pay that money directly to their children when they are in their care. Is that so bad, or is that what child support actually is? It is common for legislatures to encourage social policies through law-making. Providing financial incentives or redirecting a financial obligation towards a specific purpose changes peoples behaviors. Is it so wrong to have a father pay his support towards the expenses he would incur if he cared for his child versus to the other parent for her (or him) to pay? I suggest 'not, and moreso not only will the father benefit tremendously, but the child will be a more well-adjusted person, and psychologically better equipped to become a good adult.

II.

JOINT CUSTODY STATUTES.

The Committee on Judiciary should incorporate another provision within Bill 472 making clear that joint custody shall be awarded. Guam's law currently contains a *rebuttable* presumption that joint custody shall be awarded. *However*, the law is not clear enough to discourage litigants from jockeying over children to inflict emotional pain upon the other party and financial gain for child support reasons. Clearly, children are better off in society when they experience the love, care and discipline of both parents. No behavior is instinctual, *except* perhaps an infant's ability to "suckle" after birth. College studies show that how a person

behaves in adulthood is directly correlated with the experiences that the person learns and acquires during childhood from their parents or caregivers. Mothers become “good mothers” normally because of being taught from their parents and the same is true of fathers.

Promoting social policy by encouraging joint and equal custody will mitigate the ill effects that single parent families have upon our future generations who we see today as our children. Encouraging single fathers or mothers to care for their children makes the children better adjusted youths and eventually adults, and has the positive side effect of making the adults better parents. It is not easy to be a parent, and learning the hard way makes us all appreciate being parents even more.

The law currently provides archaic and outdated sections which should be amended or repealed by the legislature, such as

“Section 3509. Rights as Between Parents. As between parents claiming the guardianship adversely to each other, neither is entitled to priority; but other things being equal, if the child is of tender years, it should be given to the mother; if it is of an age to require education and preparation for labor and business then to the father.”

The “Tender Years Doctrine” is no longer accepted in most sociological studies. Either parent is equally fit to raise an infant after birth, and methods exist to have the mother’s milk preserved for feeding during shared custody periods. Otherwise, there are many products on the market which give similar nutrients required by an infant similar to a mother’s milk. There are absolutely no other reasons which make a mother a better parent than a father based solely upon her gender. All behavior is learned and socialized. A mother’s love and affection is not by nature any better than a father’s. Hence, this statute should be removed from Guam laws.

Another provision dealing with custody is 19 GCA §4106, which states,

“Section 4106. Custody. The father and mother of a legitimate unmarried minor child are equally entitled to its custody, services and earnings. If either the father or mother be dead or unable or refuse to take the custody or has abandoned his or her family, the other is entitled to its custody, services and earnings.” (Emphasis added).

Given reality in our society today, the word “legitimacy” should be removed and another Section should incorporate a definition on what grounds may rebut the presumption of custody in order to curtail litigation.

The Legislature, which is the policymaking body in the government, must send a strong, clear and unequivocal message to the Courts, that it wishes that both parents have custody of their children. Mechanisms already exist in the law, and Bill 472 has its own, which prevent children from being exposed to poor living conditions and poor parenting skills, such as Motions for Modifying Custody for Cause, Child Protective Services, and Persons in Need of Services Petitions.

In closing, it is clear that the Child Support Guidelines are not fitted to accommodate joint custody cases and require amendment. Section 8 of Bill 472 has the clauses within it to correct the financial unfairness and reduce the animosity in Family Court, but at the same time another clause should be added to make the presumption of joint custody the rule and not an easily rebuttable presumption. Thank you.

➔ **Section 13. Sunset Provision.** The provisions of Sections 1, 3, 4, 5, 6, 11 and 12 of this 1997 Act are enacted for a limited trial period, and unless otherwise extended by the Legislature, shall expire on September 30, 1999. During the trial period the Department of Law shall monitor compliance by employers with reporting requirements, documenting any problems encountered by them, and evaluate the effectiveness of the New Hire Directory program and the licensing sanctions and procedures in enforcing the child support laws. The Governor, based upon the findings and recommendations of the Attorney General, shall submit a report regarding the program along with any requested legislation to the Speaker of the Twenty-Fifth Guam Legislature by August 1, 1999.

~~~~~  
**PUBLIC LAW NO. 24-117**

Bill No. 467 (COR)  
Date Became Law: December 18, 1997  
Governor's Action: Approved

Introduced by:

A. R. Unpingco  
A. C. Blaz  
Mark Forbes

T. C. Ada  
F. B. Aguon, Jr.  
E. Barrett-Anderson  
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  
V. C. Pangelinan  
J. C. Salas  
A. L.G. Santos  
F. E. Santos  
J. WonPat-Borja

or necessary expenses to meet particular educational needs of a child when such expenses are incurred by agreement of both parents or ordered by the court.

c. Older Child Adjustment:

The average expenditures for children over age twelve exceed the average expenditures for all children by approximately ten percent. Therefore, the court may increase child support for an older child by an amount up to ten percent of the support shown on the Schedule.

The net figure derived from adding any of these allowable sums to the Basic Child Support Obligation is the total Child Support Obligation.

6. Each Parent's Proportionate Share of the Total Child Support Obligation Shall Be Determined as Follows:

The Total Child Support Obligation shall be divided between the parents in proportion to their adjusted gross incomes. The obligation of each parent is computed by multiplying each parent's percentage of his/her Combined Adjusted Gross Income by the Total Child Support Obligation. The custodial parent shall be presumed to spend his or her share on the children.

7. The Child Support Award Shall Be Determined as Follows:

The court shall order the non-custodial parent to pay child support in an amount equal to his or her proportionate share of the Total Child Support Obligation.

8. EXAMPLE: One child, age 15: Combined Adjusted Gross Income is \$1,000. The father's Adjusted Gross Income is \$600. Divide the father's Adjusted Gross Income by the Combined Adjusted Income. The result is the father's share of the Combined Adjusted Gross Income.

Thus: \$600 divided by \$1,000 = 60%. The father's share would be 60%. The mother's share would be 40%. On the Schedule, the Basic Child Support Obligation for Combined Adjusted Gross Income of \$1,000 for One Child is \$200. To this the judge adds \$20 because the child is over twelve (approximately 10% in this example). The total Child Support Obligation is \$220.

The father's share is 60% of \$220, or \$132. The mother's share is 40% of \$220, or \$88. Custody is awarded to the mother.

The Child Support Award is that the father pay the mother \$132 per month.

The value of the mother's contribution is \$88, and she is presumed to spend it directly on the child.

9. Shared Custody Situations:

It is the intention of these guidelines to remove financial incentives associated with custody and visitation arrangements. Shared custody shall warrant child support less than provided in these guidelines only where the court specifies and apportions an offsetting

amount of the children's expenses to the parent paying support.

#### 10. Visitation

The court may consider the costs of visitation and may allocate such costs between the parents in proportion to their ability to pay.

#### 11. Abatement

When the non-custodial parent is directly providing for the children's needs for an extended period of time, such as on a long visit, the court may order a reduction of child support paid to the custodial parent.

#### 12. Gifts In Lieu of Money

The child support award is to be paid in money. Gifts of clothing, etc. in lieu of money are not to be offset against the support award, except by court order.

#### 13. Medical Insurance

An order for child support shall assign responsibility for providing medical insurance for the children who are the subject of the support award. The court shall specify the percentage of uninsured medical expenses for the children which each parent shall pay. The apportionment shall reflect the parents' respective ability to pay.

#### 14. Review and Adjustment (Modification)

Review and adjustment may be initiated by the Office of the Attorney General, Family Division when:

1. there is no provision for health insurance in the order;
2. in AFDC cases, thirty six (36) months after establishment of the order, or most recent review; or
3. in Non-AFDC cases, only after thirty six (36) months after establishment of the order, or most recent review, and when requested by either parent.

#### 15. Judge's Findings

The court shall make findings in the record as to: adjusted gross income, basic child support obligation, total child support obligation, the parent's proportionate share of the total child support obligation, the child support award and medical insurance.

#### 16. Adoption of Guidelines, Effect on Modifications

The adoption of these guidelines is, by itself, a substantial and continuing change of circumstance sufficient to support a motion to modify an existing child support award.

**Testimony, Bill No. 472 (COR)**  
**David Lubofsky**

The bill is broken into two primary sections under Article 2, Action Against Licenses for Failure to Pay Child Support and Joint and Equal Legal and Physical Custody Support Orders. In the first section, Action Against Licenses, I cannot support this part of the bill. In my opinion, taking licenses away from non-custodial parents, in most cases fathers, gives the court intrusive rights that are not based in any evidence that these parents are capable of paying. For years, Americans have been fed a diet of "deadbeat dad" propaganda while a growing number of fathers heartbroken over the loss of their children suffer the backlash of negative association. Laws, as required by the federal government and proposed here, are based on this hysteria. The \$34 billion that fathers allegedly owe nationwide in support, meanwhile, is based on a dubious estimate of what the total would be if every non-custodial father earned the median salary and if every single mother had a support award. Most of the fathers on deadbeat lists are undereducated, unskilled laborers. **A University of Wisconsin study found that of nonpaying fathers nationally, only 12 percent had annual incomes of more than \$18,464; more than half made less than \$6,155.** These figures and research translate into similar circumstances on Guam. The proposed bill for the most part will be aimed at lower income parents. Most parents who don't pay get caught up in system that does not allow adequate contact with their children and have made arbitrary orders of support that are not easily changed.

The Bradley Amendment [42, U.S.C. 666(a)(9)(c )] says that once a child-support obligation has been established, it cannot be retroactively reduced or forgiven by a judge. If a child support obligor becomes disabled, imprisoned, unemployed, or even slips into a coma, unless they have the wherewithal or presence of mind to file for a suspension or reduction, their debt will continue to accumulate, and cannot be modified for any reason. The Bradley amendment all but ensures that any parent who has a dip in cash flow will be buried under a debt that cannot be legally escaped. It often helps chase poor men into illegal activities or the underground economy, away from "mainstream" jobs and their children. This is clearly wrong, and violates every principle of justice and

fair play. The part of Bill 472 that goes after these parent's further by taking their licenses is wrong.

Consider: The federal Office of Child Support Enforcement today employs 59,000, spends \$4 billion annually and has draconian police powers unimaginable to most Americans. For failure to pay child support, regardless of the reason, a "deadbeat" can, as bill 472 proposes, lose his driver's license and passport, his occupational and recreational licenses, have his wages garnished and his assets seized. He also can be restrained without due process -- governmental feat even accused murderers wouldn't be expected to tolerate. In general, the deadbeat (dad) parent is less a scoundrel than the pitiful, offspring of a divorce industry predicated on the mistaken assumption that children belong to one parent (the mother in 90 percent of divorces), and that fathers, regardless of their income, are cash cows. The children of such couplings surely deserve better than they're getting -- and surely some of that \$4 billion spent nationally in taxpayer money and the local funds could be used to that end -- but building bureaucracies, policies and a police state around myths and propaganda is helping no one.

The solution to the mythical deadbeat problem is foremost to recognize that we're really talking about two classes of people -- the welfare (never-married) class for whom lack of education and unemployment are the biggest problem; and the divorce class, whose problems stem largely from the win-lose adversarial court system. In both cases, government might properly play a role in helping fathers become part of their children's lives rather than in further alienating them with such laws as 472. The more we chase parents who can't afford to pay or fall into this classification, the more we limit their rights, as an example to hold or suspend a license. This leads to the more likely scenario that these parents will leave Guam and never see their children. Child support, with its excessive awards and Draconian punishments, only serves to force noncustodial parents into exile, causing irreparable harm to children. Mothers usually say that child support is too low, not too high. But when asked if they'd be willing to give custody of the children to the father and pay him the exact amount of child support he is expected to pay her, they scream bloody murder. According to the Government Accounting Office, noncustodial mothers have the worst child support compliance track records, but we

never hear of "deadbeat moms." While our country spends billions collecting child support, virtually nothing is spent on visitation enforcement, which in my opinion is the key to getting support paid. Over 40% of mothers admit interfering with visitation as reported in Sanford Braver's book, "Divorced Dads: Shattering the Myths."

Lack of accountability and lack of contact or limited contact with children are major reasons that parents who can afford to pay child support don't. Child support is tax-free income to the custodial parent. It can be spent on anything: drugs, booze, a new hairstyle, perhaps even the children. Unlike the IRS, no documentation is required showing how and where the child support was spent. It is assumed it will be spent on the children. However, economists estimate that only \$1 out of every \$5 of support is spent on children. Furthermore, no one ever asks custodial parents to prove they are contributing their fair share. We must pass laws that emphasize increased parental involvement over money collected. We need to hold couples accountable for the children they have created. We must not allow "Move-away Moms" to go unpunished. Children have a right to be raised by both biological parents, and parents have a responsibility to raise their children. Child support should only be used as a last resort, either when both parents agree to it or when one parent refuses to care for their children. I do not agree with any law that further restricts the rights of parents who do not pay child support, unless the law is aimed at dealing with the real issue of support in relationship to visitation. The system as it now stands is already set up to garnish wages to collect child support, to suspend licenses does not make sense. Attached is a copy of a class action suit that is attacking this very issue in Michigan.

In relationship to the second part of Bill 472, for shared or joint and equal legal and physical custody, I feel the biggest problem at this time is that at the time of divorce the custody laws and child support guidelines are not clear. It has been said that there is a presumption of shared parenting in the Guam law, but in fact this is not clear and there is too much discretion left up to the courts to interpret this as they see fit. The same custody guidelines or law also discusses the "tender" years, which implies favoritism to mothers. It is IMPERATIVE that custody laws are changed to read (Guam Code Annotated) **"custody, particularly physical custody, shall be awarded to parents jointly, and that if either parent requests sole custody, the burden of proof that such an**

**arrangement is not in the best interests of the child shall be upon the parent requesting sole custody.**” I don’t feel that bill 472 addresses this and without this added language, discussing the child support in such a shared arrangement is putting the horse before the cart. It is also my opinion, without such language as part of the custody law, that it makes it more difficult for lower economic fathers or parents to actually achieve shared parenting, especially in a long drawn out court battle. This is especially true if one parent is more affluent than the other. The language of 472, and what some may see as the intent of the law, better serves the interests of those who are more affluent and can afford attorneys to achieve shared parenting. Adding the above language and firming up child custody guidelines to reflect shared parenting or custody is a must to fairly provide all fathers access to their children after divorce, not just those who can afford (or stomach) the long court battles.

Another problem with the current system is that there is no consistency on how child support is figured in a shared parenting situation. Judge by judge, day by day, appeal by appeal seems to rule on how these support orders are developed, without a consistent rhyme or reason. This consistent formula is extremely important and should be part of this bill. The bill also implies or discusses no child support being paid in a shared parenting situation. I see this as a great incentive to get parents involved with their children. The way I look at it is if high amounts of court ordered child support with limited contact with children push parents out of the picture, as shown by research, then no support in a shared parenting situation will increase parent involvement. This is innovative and novel. Everyone knows the importance that both parents play in the lives of their children. Anything that we can do to keep this role intact after a divorce is a win/win situation for all, especially the children.

One last aspect of any change in child support in shared parenting; current formulas don’t allow parents to take into consideration other children from other marriages that they have at home with them, except for a \$50 deduction. I feel that all children that parents are responsible for should be figured into any support formula equally.



Thank you for allowing me to comment on this law. I am always available to discuss this issue or similar issues.

Thanks



David Lubofsky

790 N. Marine Dr. #699

Tumon, Guam 96911

476-1804

[cybcounselor@netpci.com](mailto:cybcounselor@netpci.com)

*Class Action  
by Divorced Fathers  
in Michigan*

Child Support Collection Leads Divorced Fathers to Sue the State of Michigan

**STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM**

**CASE NO. \_\_\_\_\_**

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**MICHAEL E. TINDALL, individually and  
on behalf of all others similarly situated**

**Plaintiff**

**VS**

**THE STATE OF MICHIGAN;  
MICHIGAN STATE FRIEND OF COURT BUREAU ("FOCB");**

**WAYNE COUNTY CIRCUIT COURT, FAMILY DIVISION ("WCCC"),  
BY: HON. KIRSTEN FRANK KELLY, PRESIDING JUDGE;**

**WAYNE COUNTY FRIEND OF COURT ("WFOC"),  
BY: KIM S. BATEMAN;**

**OAKLAND COUNTY CIRCUIT COURT, FAMILY DIVISION ("OCCC"),  
CLASS ACTION COMPLAINT  
BY: HON. JOAN E YOUNG, PRESIDING JUDGE;**

**FOR VIOLATION OF U.S. AND  
OAKLAND COUNTY FRIEND OF COURT ("OFOC"),**

**MICHIGAN CONTITUTIONS,  
BY: JOSEPH G. SALAMONE;**

**DECLARATORY JUDGMENT,  
MACOMB COUNTY CIRCUIT COURT, FAMILY DIVISION,  
INJUNCTIVE AND OTHER  
BY: HON. DONALD MILLER, PRESIDING JUDGE;**

**EQUITABLE RELIEF  
MACOMB COUNTY FRIEND OF COURT (MFOC"),  
BY: THOMAS J. MCDONALD;**

**MONROE COUNTY CIRCUIT COURT, FAMILY DIVISION, ("MOCCC")**

**BY: HON. JOHN HALLMAN, PRESIDING JUDGE;**

**MONROE COUNTY FRIEND OF COURT ("MOFOC"),  
BY: MARIA ZAGORSKI;**

**WASHTENAW COUNTY CIRCUIT COURT, FAMILY DIVISION  
("WACCC")**

**BY: HON. JOHN HIRKENDALL, PRESIDING JUDGE;**

**WASHTENAW COUNTY FRIEND OF COURT ("WAFOC"),  
BY: LINDA EDWARDS - BROWN;**

**LIVINGSTON COUNTY CIRCUIT COURT, FAMILY DIVISION  
("LCCC"),**

**BY: HON. SUSAN RECK, PRESIDING JUDGE;**

**LIVINGSTON COUNTY FRIEND OF COURT ("LCFOC");  
BY: MELISSA SCHARRER;**

**GENESEE COUNTY CIRCUIT COURT, FAMILY DIVISION ("GCCC"),  
BY: HON. DUNCAN BEAGLE, PRESIDING JUDGE;**

**GENESEE COUNTY FRIEND OF COURT ("GFOC")  
BY: JENNIE BARKLEY;**

**DAVID M. FINDLING, ESQ., a/k/a "GARBAGE MAN" ("DMF") AND  
FINDLING LAW FIRM PLC, ("FLF") jointly and severally,  
Defendants.**

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**TROMBLY TINDALL P.C.  
ATTORNEYS FOR PLAINTIFF  
BY: MICHAEL E. TINDALL (P29090)  
600 HURON AVE., STE. 14  
PORT HURON, MI 48060  
(810)-385-7344  
FAX: (815) 425-0657**

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**COMPLAINT AND JURY DEMAND**

**Now comes Plaintiff, by and through his undersigned attorneys, TROMBLY  
TINDALL P.C., and for this Complaint states as follows:**

**NATURE OF THE CASE**

**1. This is a class action on behalf of all payers of child support in the seven (7)  
county metropolitan Detroit area and throughout the State of Michigan**

subject to domestic relations support orders and/or enforcement proceedings from and after August 22, 1996.

2. Plaintiff class members seek a declaration of their rights under the U.S. and Michigan Constitutions, Michigan statutes, and, Michigan court rules, together with equitable relief including: an injunction(s) against further and additional violations of their constitutional and statutory rights; dissolution of illegal and unconstitutionally created receiverships and seizures of personal and real property; rescission of illegal and unconstitutional suspensions of professional, occupational, drivers and other licenses; restitution of illegally and unconstitutionally seized and taken real and personal property; accounting for and restitution of all proceeds of the sale or liquidation of illegally seized real and personal property and of all illegal, excessive and unreasonable fees, costs, and, expenses imposed on Plaintiff class members and paid to illegally and unconstitutionally appointed post judgment, state court domestic relations receivers as a consequence of the violation of their constitutional and statutory rights.

3. On or about August 22, 1996, the U.S. Congress enacted P.L. 104-193, amending Section 466 of the Social Security Act, being 42 USC 666, to require states, including Michigan, to enact statutory procedures to improve the effectiveness of state child support enforcement under penalty of reduction of federal revenue sharing. These federally imposed requirements included the mandatory establishment of:

- Procedures under which liens would arise by operation of law against real and personal property of child support payers for amounts of overdue support allegedly owed by non custodial parents who reside or own property in the State of Michigan. 42 USC 666(a)(4) Procedures requiring a non custodial parent to give security, post bond, or, give some other guarantee to secure payment of overdue support; *after* notice to the non custodial parent of the proposed action; *after* notice of the procedures to be followed to contest the alleged arrearage; and, *after* full compliance with all procedural due process requirements of the State of Michigan. 42 USC 666(a)(6). Procedures under which the State of Michigan is to withhold, suspend or restrict the use of drivers, professional, occupational, recreation, and, sporting licenses of individuals allegedly owing overdue support, or, failing, *after appropriate notice*, to comply with subpoenas or warrants relating to paternity or child support proceedings. 42 USC 666(a)(16).

4. Thereafter, in an attempt to enact statutory provisions to comply with these federal requirements and to avoid loss of federal revenue sharing funds and revenue, the Michigan legislature enacted:

- A. PA 1996, No. 239, being MCLA 552.628, effective January 1, 1997, authorizing an "office of friend of court" to petition a circuit court to suspend professional, occupational, drivers and other licenses of a support payer three (3) months or more in

arrears under a support order.

**B.. PA 1998, No. 334, being MCLA 552.625b, effective August 10, 1998, authorizing an "office of friend of court" to perfect a lien against, encumber, seize, and, sell real and personal property, including through the appointment of a post judgment domestic relations receiver, of a payer of support if an arrearage accrues in an amount exceeding one (1) years support payments payable under a payer's support order.**

**5. PA 1996, No. 239, is unconstitutional on its face as it violates the Separation of Powers Clause, Article III, Section 2, of the Michigan Constitution; the Administrative action clause, Article VI, Section 28, of the Michigan Constitution; the due process clause, Article I, Section 17, of the Michigan Constitution; the Michigan Administrative Procedures Act, being MCLA 24.201, et seq.; and, thereby, deprives support payers in Michigan of their federally protected, constitutionally guaranteed right to due process of law under the 5<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution.**

**6. PA 1998, No. 334, is unconstitutional on its face as it violates the due process clause, Article I, Section 17 of the Michigan Constitution; and, deprives support payers in Michigan of their federally protected, constitutionally guaranteed right to due process of law under the 5<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution.**

**7. Throughout the Class Period, Defendants have, nevertheless, illegally and unconstitutionally suspended licenses of support payers, and, perfected liens and encumbrances against, and, seized, taken and sold real and personal property of support payers in the seven (7) county metropolitan area and throughout the State of Michigan, with and without the appointment of post judgment state court receivers, in violation of both the U.S. and Michigan Constitutions, without due process of law, and, in violation of the very statutory conditions imposed upon them by PA 1996, No 239, and, PA 1998, No. 334.**

**8. Defendants State of Michigan and FOCB have failed to adequately train and supervise Defendants "offices of friend of court"; have failed to adequately train, supervise and administer Defendants circuit courts; and, have failed to proscribe and implement adequate policies and procedures to ensure that the constitutional rights of support payers in the seven (7) county metropolitan area and throughout the State of Michigan are adequately protected and enforced.**

**9. Throughout the Class Period, Defendants circuit courts and "offices of friend of court" have engaged in excessive and illegal appointments of post judgment domestic relations receivers, as a child support collection and enforcement device, without proper notice or hearing and in violation of the statutory conditions and restrictions contained in PA 1998, No. 334.**

**10. Although various persons have received appointments to act as post judgment domestic relations receivers, the disproportionate majority of said appointments in the seven (7) county metropolitan area have been given to David M. Findling, ("DMF"), a/k/a/ the "Garbage Man" and his law firm FINDLING LAW FIRM PLC ("FLF").**

**11. Under the authority and with the approval of Defendants circuit courts and Defendants "offices of friend of court", DMF and FLF have illegally and unconstitutionally encumbered, seized and taken the real and personal property of support payers under color of state law without due process of law and without just compensation; have liquidated and sold such property for inadequate and less than full value; have failed to properly account for and apply proceeds from such sale and liquidation of property in accordance with state law; have charged and paid themselves, from the proceeds of such sales, excessive, unreasonable and unnecessary fees and compensation; and, have failed to properly pay over, credit and apply the proceeds of such seizures and sales against the support arrearages of targeted support payers.**

**12. Defendants circuit courts and "offices of friend of court" permit and encourage the illegal and unconstitutional appointments of DMF and FLF as post judgment domestic relations receivers pursuant to Orders of Appointment drafted by DMF and FLF, which Orders purport to illegally cloak DMF and FLF with absolute judicial immunity for their illegal acts; permit and approve the illegal and unconstitutional seizure and taking of private property in violation of law; and, authorize and approve the charging, payment and illegal application of excessive and unreasonable fees and costs to and by DMF and FLF; all as a device to illegally and improperly increase both the volume and amount of enforcement actions and collections against child support payers in Michigan, and, thereby, preserve and maintain Defendants' eligibility for and avoid reductions in federal funding and revenue sharing.**

**13. Defendants circuit courts and "offices of friend of courts" fail to terminate and dissolve these illegal and unconstitutional post judgment domestic relations receiverships when otherwise required pursuant to statute, thereby illegally preserving, continuing and maintaining such receiverships as ongoing collection and enforcement devices which can and are re-activated at will and without complying with required notice, hearing and due process requirements for the collection of future support arrearages.**

**14. Due to Defendants' illegal and unconstitutional conduct, and, their blatant violation of and disregard for statutory and rule made requirements for notice, hearing, and, required due process, Plaintiff and the other class members have had their property illegally encumbered, seized, sold, and, liquidated without due process of law; have had or been threatened with the illegal and unconstitutional suspension of licenses and the consequent limitation on their right and ability to earn an income; have had property taken without just compensation; have had property liquidated and sold at**

**inadequate and less than fair value; have been subjected to and charged with excessive, unreasonable and unnecessary costs, fees, and expense; and, remain subject to the ongoing illegal and unconstitutional control of these illegally appointed domestic relations receivers.**

## **COUNT I: ALL DEFENDANTS**

### **JURISDICTION**

**15. At all times relevant to the allegations of this Complaint, Plaintiff was a party to post Judgment domestic relations proceedings in Michigan, is subject to the Michigan Friend of Court Act (Act), MCLA 552.501, et seq., and the Support and Visitation Enforcement Act (Enforcement Act), being MCLA 552.601, and, is the holder of both operator and professional/occupational licenses in the State of Michigan.**

**16. Defendant State of Michigan operates, maintains and is responsible for the activities of Defendant Wayne County Friend of Court pursuant to MCLA 552.527; and, supervises, directs and is responsible for the training and activities of the remaining Defendant Friend of Court offices through its agency, Defendant State Friend of Court Bureau, pursuant to MCLA 552.519**

**17. Defendant State Friend of Court Bureau (FOCB) is a bureau or division of the Office of the State Court Administrator created pursuant to Section 19 of the Friend of Court Act, being MCLA 552.503 and 552.519, and, is an agency of the State of Michigan statutorily charged with the duties and responsibilities of:**

**(a) developing and recommending guidelines for the conduct, operations, and, procedures employed by the Defendant "friend of court offices" in the course of:**

- (i) investigative functions**
- (ii) recommendation functions**
- (iii) referee functions; and,**
- (iv) enforcement functions**

**(b) training Defendant county "friend of court offices" and their employees to carry out statutory investigative, recommendation, referee and enforcement duties.**

**(c) Developing guidelines for:**

- o the imposition of liens against real and personal property of child support payers in Michigan, including, but not limited to, the appointment of post judgment domestic relations receivers and the seizure of real and personal property belonging to such child support payers for the purpose of payment of allegedly**

**past due child support arrearages.**

- **requiring the posting of bond by child support payers in Michigan; and,**
- **requiring security or other guarantees to secure the payment of support by child support payers in Michigan, including but not limited to, the suspension of professional/occupational and other licenses held by payers of child support; the appointment of post judgment domestic relations receivers, and, the seizure of real and personal property belonging to such child support payers in Michigan for the purpose of payment of allegedly past due child support arrearages.**

**18. Defendant Wayne County Circuit Court, Family Division, (WCCC) is the family division of the Wayne County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Wayne County. Hon. Kristen Frank Kelly is presiding judge of the Family Division.**

**19. Defendant Wayne County Friend of Court (WFOC), is operated and maintained by the State of Michigan, and, is an "office of the friend of the court" created pursuant to Section 3 of the Michigan Friend of the Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Wayne County Circuit Court for support, visitation and custody. Kim S. Bateman is the Wayne County Friend of Court.**

**20. Defendant Oakland County Circuit Court, Family Division, (OCCC) is the family division of the Oakland County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Oakland County. Hon. Joan Young is presiding judge of the Family Division.**

**21. Defendant Oakland County Friend of Court (OFOC), is operated and maintained by the County of Oakland, and, is an "office of the friend of the court" created pursuant to Section 3 of the Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Oakland County Circuit Court for support, visitation and custody. Joseph G. Salamone is the Oakland County Friend of Court.**

**22. Defendant Macomb County Circuit Court, Family Division, (MCCC) is the family division of the Macomb County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Macomb County. Hon. Donald Miller is presiding judge of the Family Division.**

**23. Defendant Macomb County Friend of Court (MFOC), is operated and maintained by the County of Macomb, is an "office of the friend of the court" created pursuant to Section 3 of the Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with**



responsibility for initiating proceedings to enforce orders and judgments issued by the Macomb County Circuit Court for support, visitation and custody. Thomas J. McDonald is the Macomb County Friend of Court.

24. Defendant Monroe County Circuit Court, Family Division, (MOCCC) is the family division of the Monroe County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Monroe County. Hon. John Hollman is presiding judge of the Family Division.

25. Defendant Monroe County Friend of Court (MOFOC), is operated and maintained by the County of Monroe, and is an "office of the friend of the court" created pursuant to Section 3 of the Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Monroe County Circuit Court for support, visitation and custody. Maria Zagorski is the Monroe County Friend of Court.

26. Defendant Washtenaw County Circuit Court, Family Division, (WACCC) is the family division of the Washtenaw County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Washtenaw County. Hon. John Hirkendale is presiding judge of the Family Division.

27. Defendant Washtenaw County Friend of Court (WAFOC), is operated and maintained by the County of Washtenaw, and is an "office of the friend of the court" created pursuant to Section 3 of the Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Washtenaw County Circuit Court for support, visitation and custody. Linda Edwards-Brown is the Washtenaw County Friend of Court.

28. Defendant Livingston County Circuit Court, Family Division, (LCCC) is the family division of the Livingston County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Livingston County. Hon. Susan Reckk is presiding judge of the Family Division.

29. Defendant Livingston County Friend of Court (FOC), is operated and maintained by the County of Livingston, is an "office of the friend of the court" created pursuant to Section 3 of the Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Livingston County Circuit Court for support, visitation and custody. Melissa Scharrer is the Livingston County Friend of Court.

30. Defendant Genesee County Circuit Court, Family Division, (GCCC) is the family division of the Genesee County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Genesee

County. Hon. Duncan Beagle is presiding judge of the Family Division.

31. Defendant Genesee County Friend of Court (GFOC), is operated and maintained by the County of Genesee, is an "office of the friend of court" created pursuant to Section 3 of the Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Genesee County Circuit Court for support, visitation and custody. Jennie Barkey is the Genesee County Friend of Court.

32. DAVID M. FINDLING, ESQ., a/k/a the "*GARBAGE MAN*" ("DMF") is an attorney licensed to practice law in the State of Michigan and is a principal/shareholder of FINDLING LAW FIRM PLC.

33. FINDLING LAW FIRM P.L.C. ("FLF") is the employer and principle of DMF and in whose name and under whose direction the illegal acts and scheme complained of herein were carried out. Upon information and belief, FLF and DMF are the principal architects and/or primary facilitators of a new illegal and unconstitutional policy, practice and procedure implemented by Defendants to use state court appointed receiverships as a post Judgment child support enforcement device; to illegally take private property without due process of law or just compensation in violation of the 5th and 14th Amendments to the U.S. Constitution, Article I, Section 17 of the Michigan Constitution, and, in violation of applicable state statutes and court rules; to illegally profit thereby through large volumes of illegal and improper court appointments obtained from Defendants, the charging of excessive and illegal fees, and, the failure to properly pay and account for moneys and funds illegally obtained from the sale/liquidation of illegally seized property, and, the failure to properly credit/apply such moneys and funds in accordance with statutorily proscribed priorities; all in exchange for assisting and facilitating the illegal acts and activities of Defendants complained of herein for the purpose of preserving Defendants' share of federal revenue sharing monies.

## COUNT II: ALL DEFENDANTS

### GENERAL ALLEGATIONS

34. Plaintiff incorporates by reference the allegations contained in paragraphs 1-33 above.

35. At all times relevant hereto, Plaintiff has been an attorney licensed to practice law by the Michigan Supreme Court and the holder of various and sundry drivers and other licenses issued by the State of Michigan and/or its political subdivisions.

- 36. On or about December, 1991, Plaintiff was divorced by a Judgment of the WCCC.**
- 37. From approximately 1992 through the current date, Plaintiff has been subject to the provisions of the Act and Enforcement Act as a payer of support for minor children pursuant to the judgment and orders of the WCCC.**
- 38. From 1992 through the current date, Plaintiff has been the target of approximately eight (8) enforcement proceedings initiated by Defendant WCFOC before Defendant WCCC relating to alleged support arrearages and commenced by the issuance of illegal and unconstitutional show cause orders ("SCOs") and/or illegal and unconstitutional bench warrants ("BWs") issued by Defendant WCFOC under the authority of and in complicity with Defendant WCCC.**
- 39. Upon information and belief, the remaining Defendants "offices of friend of court" and Defendants circuit courts follow the same practices and procedures employed by Defendants WCCC and WCFOC for initiating and conducting support enforcement.**
- 40. Upon information and belief, Defendant FOCB, acting in the name and under the authority of Defendant State of Michigan, designs, proscribes and approves the illegal and unconstitutional procedures and practices used by Defendants "offices of friend of courts" and Defendants circuit courts for the enforcement of child support orders.**
- 41. On or about August 24, 1998, Defendant WCFOC issued the letter attached hereto as Exhibit A initiating a hearing before Defendant WCCC to suspend Plaintiff's license to practice law in Michigan based upon an alleged child support arrearage.**
- 42. In August, 1998, Plaintiff discovered that his child support account/balance had been illegally and improperly increased by Defendant WCFOC on March 13, 1998, by a computerized memo entry in the amount of \$ 2,774.28, See, Exhibit B, for which no order had ever been entered by Defendant WCCC and while a properly filed Objection and Demand for De Novo Judicial hearing had been properly filed with Defendant WCCC and properly served on Defendant WCFOC. See, Exhibits C and D.**
- 43. On or about September 4, 1998, Plaintiff filed an action in the United States District Court, Eastern District of Michigan, Case No. 98-CV-73896-DT (Federal Case) against Defendants WCCC and WCFOC under 28 USC 1983 for violation of Plaintiff's federally protected, constitutionally guaranteed rights to due process of law based upon the issuance of illegal and unconstitutional SCOs and BWs and the failure and refusal of Defendants WCCC and WCFOC to follow and obey Michigan statutes and court rules governing notice, hearing and de novo judicial hearing in the course of child support enforcement proceedings.**

**44. On or about February 2, 1999, while the Federal Case was pending decision, Defendants WCFOC and WCCC issued yet another illegal and unconstitutional SCO and BW for an alleged child support arrearage which they knew was incorrect and inaccurate and which they knew included the amount of the illegal adjustment made to Plaintiff's account by Defendant WCFOC without proper court order.**

**45. Defendants WCCC and WCFOC knew, or, had reason to know that:**

- **the SCO recited a knowingly false and incorrect arrearage balance**
- **the incorrect arrearage balance resulted from the illegal action of Defendant WCFOC in adjusting Plaintiff's account.**
- **The SCO was not properly supported by a sworn Affidavit as required by applicable law and court rule.**
- **The SCO was not properly issued or signed by an independent judicial officer as required by law; but, was, in fact, issued by Defendant WCFOC.**
- **The SCO was null and void and of no effect whatsoever; and, therefore, ineffectual to require or command an appearance or response**
- **The SCO was legally inadequate and insufficient to initiate proceedings or to create jurisdiction to take or conduct any valid action or proceeding against Plaintiff.**

**46. On or about February 25, 1999, Defendant WCFOC did unlawfully conduct a show cause hearing pursuant to the illegal and invalid SCO at which Plaintiff did not appear.**

**47. Thereafter, on February 25, 1999, Defendant WCCC, the Hon. J.W. Callahan presiding, without notice, hearing, or even conducting a proceeding on the record, did sua sponte appoint DMF and FLF as a post judgment domestic relations receiver over Plaintiff by telephone call.**

**48. On February 25, 1999, at the time Defendant WCCC appointed DMF and FLF as post judgment domestic relations receiver over Plaintiff:**

- a. **The "alleged" arrearage claimed by Defendant WCFOC did not exceed one (1) years support payments due under Plaintiff's support order;**
- b. **The "alleged" arrearage was known by Defendant WCFOC to be inaccurate and overstated by the illegal computer entry made by Defendant WCFOC.**
- c. **Plaintiff either had no true arrearage, or, the true arrearage was substantially less than the amount alleged by Defendant WCFOC.**
- d. **Neither Defendant WCFOC, Defendant WCCC, nor, Defendant DWF ever**

complied with the statutory notice, hearing, and, other conditions, requirements and restrictions imposed by MCLA 552.625b as a necessary and essential predicate to the imposition of liens and encumbrances against real and personal property; the seizure of real or personal property; or, the appointment of a post judgment domestic relations receiver.<sup>49</sup> Thereafter, Defendant DWF and FLF did present for entry by Defendant WCCC an order which, upon information and belief, is their standard form post judgment domestic relations receivership Order used in Defendant circuit courts, appointing DMF and FLF as post judgment domestic relations receiver over Plaintiff, See, Exhibit E, which Order contained numerous violations of applicable federal and Michigan law, including:

- authorizing seizure and sale of real and personal property to satisfy "future" support, medical and insurance in direct violation of MCLA 552.603(2) which expressly provides that support amounts become an enforceable judgment only on or after the date each payment is due.
- Authorizing and directing said receivership to extend beyond the real and personal property of Plaintiff to include property, entities, and, interests belonging to others.
- Authorizing the entry upon and seizure of private property, both that owned by Plaintiff and that owned by others, without warrant and by breaking, entering and use of FORCE and disturbance of the peace.
- Authorizing the execution of legal documents and the initiation, participation and termination of legal proceedings in Plaintiff's name.
- Authorizing DMF and FLF to charge receiver fees, expenses and costs to Plaintiff rather than against the person seeking or benefiting from the actions of the receiver, in violation of MCR 6.222.
- Authorizing DMF and FLF to initiate and carry out legal action and proceedings ; and, thereby, generate additional excessive legal fees and costs without requiring either approval of the court or compliance with MCR 6.222.
- Authorizing/granting DMF and FLF priority over other claimants and creditors, including the statutory priority for support, in violation of MCLA 552.603, 552.625a and 552.625b.
- Granting DMF and FLF absolute judicial immunity despite the absence

of any provisions of law authorizing same.

50. Upon information and belief, it is the common and established practice and procedure of Defendants WCCC and WCFOC, and, the remaining Defendants "offices of friend of court" and circuit courts to suspend licenses, and, appoint and employ post judgment domestic relations receivers in the same or similar manner and using the same illegal and unconstitutional practices and procedures in violation of MCLA 552.625b.

51. Upon information and belief, the practices and procedures used by Defendants WCFOC and WCCC for the suspension of licenses, and, the appointment and employment of post judgment domestic relations receivers, and/or the seizure of real and personal property of support payers, is known to, authorized and approved by Defendant FOCB in the name and under the authority of Defendant State of Michigan.

52. Upon information and belief, Defendants DMF and FLF receive a majority of the appointments as post judgment domestic relations receiver from Defendants within the seven (7) county metropolitan area and are the persons who have actively solicited and encouraged Defendants to illegally make use of this device, in violation of applicable law, as a child support enforcement mechanism.

53. On or about September 30, 1999, the United States District Court, Eastern District of Michigan, the Hon. Denise Paige Hood presiding, issued its Declaratory Judgment in favor of Plaintiff and against Defendants WCCC and WCFOC declaring the SCOs and BWs issued by said Defendants to be illegal and unconstitutional in violation of Plaintiff's federally protected, constitutionally guaranteed right to due process of law under the 5<sup>th</sup> and 14<sup>th</sup> Amendments to the U.S. Constitution. See, Exhibit G.

54. Upon information and belief, DMF and FLF have charged and propose to have Defendant WCCC assess against Plaintiff \$17,348.25 in excessive and unreasonable receiver/attorney fees and costs for acting as a post judgment domestic relations receiver over Plaintiff; without having collected any support whatsoever, or, performing any acts as receiver; and, which they expect Defendant WCCC to approve and impose against Plaintiff in violation of MCR 6.222. See, Exhibit F.

**AISI****ALL INSURANCE SERVICES, INC.**- General Agent -  
HIH CASUALTY & GENERAL INSURANCE

All Insurance Services, Inc. has an opening for a Marketing Representative position.

**MARKETING REPRESENTATIVE**

- The right candidate must have a good verbal and written communication skills in the English language.
- Must be well versed with use of computer programs.
- Must be self motivated and self starter.
- Must have a pleasant and outgoing personality.
- Must have 2 years or more experience in Insurance Sales/Marketing.
- Excellent benefits, salary commensurate with experience.

Drop off Resume/Application at All Insurance Services, Inc., Suite 108, Baltej Pavilion, 415 Chalan San Antonio, Tamuning, Guam. Tel: 647-4617

**Notice of Public Hearing and RoundTable Hearing****Senator John Camacho Salas**Chairman of the Committee on  
Judiciary, Public Safety, Consumer Protection  
& Human Resources Development

**BILL 479: AN ACT TO ADD ARTICLES 2, 3 AND §34154 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM.**

**Roundtable Discussion**Wednesday, August 16, 2000  
6:00 pm to 9:00 pm  
Legislature Public Hearing Room**Public Hearing**Friday, August 18, 2000  
2:00 pm to 5:00 pm  
Legislature Public Hearing Room

address: 777 Sinajana Commercial Building, Route 4, Sinajana, Guam 96926

telephone: 472-3431, fax: 472-3433

website: KUENTOS-http://www.guam.net/sensalas

American Disabilities Association Coordinator:

e-mail: jsalas@sensalas.guam.net

TALAYA-http://www2.ite.net/senators/sensalas

Carl Quinata tel: 472-3431

**VEHICLES FOR BID**  
"AS IS"**1997 Acura Integra**  
**2000 Toyota 4-Runner**

Interested persons may call Loan Adjustment Department at (671) 472-5300 ext. 319, 321 or 324.

Vehicles may be viewed between the hours of 3:00 to 5:00PM. Last day for bidding is 5:00PM, Friday, August 18, 2000. The Bank reserves the right to refuse any and all bids.

**BANK OF GUAM**THE PEOPLE'S BANK  
P.O. Box BW • Hagåtña, Guam 96932An Equal  
Opportunity  
Lender

Member FDIC

**VEHICLES FOR BID**

"AS IS"

**VEHICLES****STARTING BID**

|                             |              |
|-----------------------------|--------------|
| 1996 Toyota 4Runner.....    | \$ 9,500.00  |
| SR5 4x4                     |              |
| 1992 Pontiac Grand Am.....  | \$ 2,500.00  |
| 2000 Nissan Xterra 4x4..... | \$ 19,000.00 |
| 1994 Jeep Ladero.....       | \$ 9,500.00  |
| 1996 Hyundai Accent.....    | \$ 2,500.00  |
| 1991 Nissan Pathfinder..... | \$ 1,800.00  |

**NAVMAR**  
FEDERAL CREDIT UNION

Call Collections Dept. at 565-2123/6/8

Deadline for submission of bids: August 25, 2000

The Credit Union reserves the right to reject any and all bids.

**NOTICE OF SALE BY MORTGAGE POWER OF SALE**

NOTICE IS HEREBY GIVEN that pursuant to 18 G.C.A. §36113, that mortgage and note executed and delivered by NICK M. MONDINA and URIO O. MONDINA, whose mailing address is Post Office Box 9513, Tamuning, Guam 96931, ("Mortgagor"), to and for the benefit of ComUnity Lending, Inc., a California Corporation, whose address is 175 Bernal Road, Suite 260, San Jose, CA 95119, the mortgage dated September 10, 1997, filed for record in the Office of the Recorder, Department of Land Management, Government of Guam, under Instrument No. 570533 on September 19, 1997, as assigned to COUNTRYWIDE HOME LOANS, INC., whose mailing address is 2130 Ward Avenue, Simi Valley, CA 93065 ("Mortgagee"), pursuant to that CORPORATION ASSIGNMENT OF MORTGAGE dated September 10, 1997, as recorded in the Department of Land Management, Government of Guam under Instrument No. 601550, will be FORECLOSED pursuant to a POWER OF SALE contained in the mortgage by the sale of the following property:

Lot No. 2374-4-R1-1, (Subdivision of Lot No. 2374-4), Municipality of Barrigada, Territory of Guam, Suburban, as said Lot is marked and designated on Drawing No. MS-95031, as LM Check No. 006 FY 95, as described in that Re-Subdivision Survey Map of Lot No. 2374-4-1 and L2374-4-R1, dated December 5, 1995 and recorded December 6, 1995, at the Department of Land Management, Government of Guam, under Document No. 538096. Area: 1,049 ± square meters. Last Certificate of Title No. 29739 (Basic L2374-4, Est. #11287).

All interest encumbered by said mortgage shall be sold to the highest bidder at a public auction to be held at the Barrigada Mayor's Office, on August 21, 2000 at 10:00 a.m. to satisfy the amount due on said mortgage on the date of sale. The terms of the sale are as follows:

37

Pacific Daily News, Tuesday, August 15, 2000

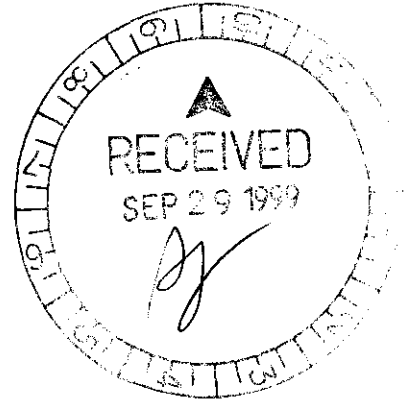


CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

*SEP 24 1999*

**SEP 28 1999**

The Honorable Antonio R. Unpingco  
Speaker  
I Mina'Bente Singko na Liheslaturan Guåhan  
Twenty-Fifth Guam Legislature  
Guam Legislature Temporary Building  
155 Hesler Street  
Hagåtña, Guam 96910



**RE: AMENDMENTS TO CHILD SUPPORT ENFORCEMENT LAWS**

Dear Speaker Unpingco:

Enclosed please find a draft bill entitled: "AN ACT TO ADD §34109.1 TO TITLE 5 GUAM CODE ANNOTATED REQUIRING SOCIAL SECURITY NUMBERS TO BE RECORDED ON LICENSE APPLICATION, TO AMEND §34105 TITLE 5 GUAM ANNOTATED REQUIRING COURT ORDERED JOB SEARCH OF UNEMPLOYED OR UNDEREMPLOYED ABSENT PARENTS, AND TO §34109.5 (a) OF TITLE 5 GUAM CODE ANNOTATED AGREEMENTS WITH FINANCIAL INSTITUTIONS."

This draft bill was prepared by the Department of Law, Child Support Enforcement Division, and is being transmitted to i Liheslatura, the Legislature, at the request of the Attorney General. Also accompanying the draft bill is the explanatory memorandum of the Attorney General.

Very truly yours,

Carl T. C. Gutierrez  
I Maga'Lahen Guåhan

Attachments

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

Office of the Speaker  
ANTONIO R. UNPINGCO  
Date: 9/29/99  
Time: 10:30 am  
Rec'd by: [Signature]  
Print Name: Laurie



DEPARTMENT OF LAW  
UFISINAN HINIRÁT ABUGAO  
Guahån

@-99-2979

CARL T.C. GUTIERREZ  
*Maga'låhi*  
Governor

JOHN F. TARANTINO  
*Hiniråt Abugao*  
Attorney General

MADELEINE Z. BORDALLO  
*Tiñente Gubetnadora*  
Lieutenant Governor

OFFICE OF THE ATTORNEY GENERAL  
of Guam

KATHLEEN E. MAHER  
*Atkådi Sigundo, Sibit*  
Chief Deputy, Civil

*Dibision Familia*  
Family Division

KATHRYN L. MONTAGUE  
*Sigundo, Dibision Familia*  
Deputy, Family Division

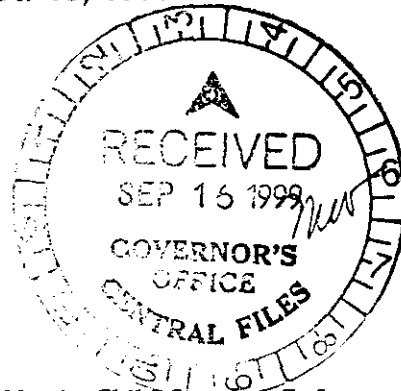
September 13, 1999

**MEMORANDUM**

To: Governor of Guam

From: Attorney General  
Department of Law

Subject: Required Child Support Legislation  
SPS/2.12-13 Collection and Use of SSN for Use in Child Support Enforcement  
SPS/2.12-15 Work Requirement for Persons Owing Past-Due Child Support  
SPS/2.12-17 Financial Institution Data Matches



Buenas yan Saluda!

Attached please find the child support bill which is necessary for Guam to enact in order to be in compliance with the Personal Responsibility and Work Opportunity Act of 1996 (PRWOA).

Public Laws 24-116 and 24-129 were enacted largely to bring Guam into compliance with PRWOA. After these two laws were passed, however, we were informed that three legislative requirements were still missing.

First, State Plan Section 2.12-13/Collection and Use of Social Security Numbers for use in Child Support Enforcement, provides that Guam require Social Security Numbers on any application for "a professional license, commercial driver's license, occupational license or marriage license". 42 USC §666 (a) (13) as amended.

To date Guam has laws requiring Social Security Numbers at financial institutions (5 GCA §34109.5), birth certificates (5 GCA §34121.1), death certificates (10 GCA §3216), and marriage licenses (19 GCA §3202). A broader statute is needed tracking the federal law's language to achieve compliance with PRWOA in the area.

Second, State Plan Section 2.12-15/Work Requirements for Persons Owing Past-Due Child Support mandates work activities to be carried out where passed due child support is owed. Although the judges and referee adjudicating child support claims routinely order non-paying absent parents to participate in job searches, this practice alone will not bring Guam into compliance with the work requirement of the statute. Guam is required to enact specific legislation "in any case in which an

COMMONWEALTH NOW!

individual owes past-due child support" [where the child is receiving assistance, the individual must] "participate in work activities". 42 USC §666 (a) (15)

Finally, State Plan Section 2.12-17/Financial Institution Data Matches requires that the term financial institution be defined under Guam law for PRWOA purposes. Public Law 24-129 "Agreements with Financial Institutions substantially enacted the federal law, but did not define the term "financial institutions".

Financial Institutions has been defined in several ways under Guam Law. Each definition was subject specific and could not automatically be applied for child support purposes. "Financial Institutions" is defined in Title 18, Chapter 12 with relation to industrial development corporations. In Title 12 Chapter 4, financial institution is differently defined for purposes of the Community Affordable Housing Action Trust Act. Elsewhere Financial Institution is also defined in 9 GCA §70.46, and Title 19 Chapter 12. 19 GCA §12101.

The language in the bill defining "financial institution" was substantially taken from the Guam's corporate law section, 18 GCA §12101.

We are submitting this proposed legislation for your review and to send to the Legislature for passage. Deputy Attorney General Kathryn L. Montague will be available to answer any questions or concerns you may have about this bill.

We are hopeful that this bill will pass the Legislature quickly, as U.S. Department of Health and Human Services, Administration for Children and Family's Region IX Representative has advised us that we are late in submitting this to them for approval. These portions of conforming PRWOA legislation were to have already been law last year.

Dångkolo' Na Agradesimiento - Thank you very much!



JOHN F. TARANTINO

attachments

TWENTY-FIFTH GUAM LEGISLATURE  
1999 (SECOND) Regular Session

Bill No. \_\_\_\_\_

Introduced by:

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

AN ACT TO ADD §34109.1 TO TITLE 5 GUAM CODE ANNOTATED REQUIRING SOCIAL SECURITY NUMBERS TO BE RECORDED ON LICENSE APPLICATION, TO AMEND §34105 TITLE 5 GUAM ANNOTATED REQUIRING COURT ORDERED JOB SEARCH OF UNEMPLOYED OR UNDEREMPLOYED ABSENT PARENTS, AND TO §34109.5 (a) OF TITLE 5 GUAM CODE ANNOTATED AGREEMENTS WITH FINANCIAL INSTITUTIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1           **Section 1. (a) A new §34109.1 is hereby added to Chapter 34, Division 3 of Title**  
2           **5 of the Guam code Annotated to read as follows: §34109.1. SOCIAL SECURITY**  
3           **NUMBERS ARE REQUIRED FOR CERTAIN LICENSE APPLICATIONS. Each licensing**  
4           **board or agency that issues professional motor vehicle, recreational or marriage licenses or**  
5           **occupational licenses or certificates shall record the social security number of an applicant for a**  
6           **professional or occupational license or certificate on the application and shall enter this**  
7           **information in its data base in order to aid the Office of the Attorney General, Family Division**  
8           **in locating parents or their assets or enforce child support orders.**

9           **Section 2. Subsection (a) (1) of §34105 of Chapter 34, Division 3 of Title 5 of the**  
10          **Guam Code is hereby amended to read as follows: §34105 of Title 5, Guam Code Annotated.**  
11          **ACTION. (a) The Legislature has determined there is public policy in favor of establishing**  
12          **paternity; of having parents support their children; and in having fair and equitable support**  
13          **orders. Therefore, whether or not the minor children have been or are recipients of public**

1 assistance, the Department, acting in the best interests of the children and the Island of Guam,  
2 may bring an action in its own name or join in an action already in existence against the person  
3 or persons responsible for the support of such children:

4 (1) To recover such amount of back support and any other amounts as may be  
5 due and owing under an existing court order, whether owed to the Department or  
6 to the custodial parent or other person having custody of the minor child, and to  
7 seek court ordered job searches as necessary for unemployed or underemployed  
8 absent parents.

9 Section 3. **Subsection (a) of §34109.5 of Chapter 34, Division 3 of Title 5 of the**  
10 **Guam Code Annotated is hereby amended to read as follows:** AGREEMENTS WITH  
11 FINANCIAL INSTITUTIONS. (a) The Attorney General, or a designated representative, shall  
12 enter into agreements with financial institutions doing business on Guam to coordinate the  
13 development and operation of a system for matching data, using automated exchanges of data to  
14 the maximum extent feasible. "Financial Institution" is defined as any banking institution or trust  
15 company, savings and loan institution, credit union, finance company, insurance company or  
16 related corporation, partnership, benefit association, foundation, ~~an~~ insurance company, safe  
17 deposit company, money market mutual fund or similar entity authorized to do business in the  
18 State.

"(B) PROOF OF SUBSTANTIAL CHANGE IN CIRCUMSTANCES NECESSARY IN REQUEST FOR REVIEW OUTSIDE 3-YEAR CYCLE.—Procedures under which, in the case of a request for a review, and if appropriate, an adjustment outside the 3-year cycle (or such shorter cycle as the State may determine) under clause (i), the State shall review and, if the requesting party demonstrates a substantial change in circumstances, adjust the order in accordance with the guidelines established pursuant to section 467(a).

"(C) NOTICE OF RIGHT TO REVIEW.—Procedures which require the State to provide notice not less than once every 3 years to the parents subject to the order informing the parents of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order."

**SEC. 362. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.**

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended by adding at the end the following new paragraphs:

"(4) In response to a request by the head of a State or local child support enforcement agency (or a State or local government official authorized by the head of such an agency), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed for the purpose of establishing an individual's capacity to make child support payments or determining the appropriate level of such payments;

"(B) the paternity of the consumer for the child to which the obligation relates has been established or acknowledged by the consumer in accordance with State laws under which the obligation arises (if required by those laws);

"(C) the person has provided at least 10 days' prior notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

"(D) the consumer report will be kept confidential, will be used solely for a purpose described in subparagraph (A), and will not be used in connection with any other civil, administrative, or criminal proceeding, or for any other purpose.

"(5) To an agency administering a State plan under section 454 of the Social Security Act (42 U.S.C. 654) for use to set an initial or modified child support award."

**SEC. 363. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.**

Part D of title IV (42 U.S.C. 651-669) is amended by adding at the end the following:

**"SEC. 469A. NONLIABILITY FOR FINANCIAL INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.**

"(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a financial institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforce-

44 USC 649a.

ment agency attempting to establish, modify, or enforce a child support obligation of such individual.

"(b) PROHIBITION OF DISCLOSURE OF FINANCIAL RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCEMENT AGENCY.—A State child support enforcement agency which obtains a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

"(c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—

"(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any person knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages against such person in a district court of the United States.

"(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

"(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(A) the greater of—

"(i) \$1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

"(ii) the sum of—

"(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

"(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

"(B) the costs (including attorney's fees) of the action.

"(d) DEFINITIONS.—For purposes of this section—

"(1) FINANCIAL INSTITUTION.—The term 'financial institution' means—

"(A) a depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

"(B) an institution-affiliated party, as defined in section 3(u) of such Act (12 U.S.C. 1813(u));

"(C) any Federal credit union or State credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as defined in section 206(r) of such Act (12 U.S.C. 1786(r)); and

"(D) any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in the State.

"(2) FINANCIAL RECORD.—The term 'financial record' has the meaning given such term in section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401)."

"(d) EFFECT ON OTHER LAWS.—States may enter into reciprocal arrangements for the establishment and enforcement of support obligations with foreign countries that are not the subject of a declaration pursuant to subsection (a), to the extent consistent with Federal law."

(b) STATE PLAN REQUIREMENT.—Section 454 (42 U.S.C. 654), as amended by sections 301(b), 303(a), 312(b), 313(a), 333, 343(b), and 370(a)(2) of this Act, is amended—

(1) by striking "and" at the end of paragraph (30);

(2) by striking the period at the end of paragraph (31) and inserting "; and"; and

(3) by adding after paragraph (31) the following new paragraph:

"(32)(A) provide that any request for services under this part by a foreign reciprocating country or a foreign country with which the State has an arrangement described in section 459A(d)(2) shall be treated as a request by a State;

"(B) provide, at State option, notwithstanding paragraph (4) or any other provision of this part, for services under the plan for enforcement of a spousal support order not described in paragraph (4)(B) entered by such a country (or subdivision); and

"(C) provide that no applications will be required from, and no costs will be assessed for such services against, the foreign reciprocating country or foreign obligee (but costs may at State option be assessed against the obligor)."

**SEC. 372. FINANCIAL INSTITUTION DATA MATCHES.**

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, 323, 365, and 369 of this Act, is amended by inserting after paragraph (16) the following new paragraph:

"(17) FINANCIAL INSTITUTION DATA MATCHES.—

"(A) IN GENERAL.—Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State—

"(i) to develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and

"(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).

"(B) REASONABLE FEES.—The State agency may pay a reasonable fee to a financial institution for conducting the data match provided for in subparagraph (A)(i), not to exceed the actual costs incurred by such financial institution.

"(C) LIABILITY.—A financial institution shall not be liable under any Federal or State law to any person—

"(i) for any disclosure of information to the State agency under subparagraph (A)(i);

"(ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or

"(iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' has the meaning given to such term by section 469A(d)(1).

"(ii) ACCOUNT.—The term 'account' means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account."

**SEC. 373. ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS IN CASES OF MINOR PARENTS.**

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, 323, 365, 369, and 372 of this Act, is amended by inserting after paragraph (17) the following new paragraph:

"(18) ENFORCEMENT OF ORDERS AGAINST PATERNAL OR MATERNAL GRANDPARENTS.—Procedures under which, at the State's option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parent of such child is receiving assistance under the State program under part A, shall be enforceable, jointly and severally, against the parents of the noncustodial parent of such child."

**SEC. 374. NONDISCHARGEABILITY IN BANKRUPTCY OF CERTAIN DEBTS FOR THE SUPPORT OF A CHILD.**

(a) AMENDMENT TO TITLE 11 OF THE UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting "; or";

(3) by adding at the end the following:

"(18) owed under State law to a State or municipality that is—

"(A) in the nature of support, and

"(B) enforceable under part D of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

(4) in paragraph (5), by striking "section 402(a)(26)" and inserting "section 408(a)(3)".

(b) AMENDMENT TO THE SOCIAL SECURITY ACT.—Section 456(b) (42 U.S.C. 656(b)) is amended to read as follows:

"(b) NONDISCHARGEABILITY.—A debt (as defined in section 101 of title 11 of the United States Code) owed under State law to a State (as defined in such section) or municipality (as defined in such section) that is in the nature of support and that is enforceable under this part is not released by a discharge in bankruptcy under title 11 of the United States Code."

(A) IN GENERAL.—Paragraph (6) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local child support enforcement agencies) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:“(B) DISCLOSURE TO CERTAIN AGENTS.—The following information disclosed to any child support enforcement agency under subparagraph (A) with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by such agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C):

- (i) The address and social security account number (or numbers) of such individual.
- (ii) The amount of any reduction under section 6402(c) (relating to offset of past-due support against overpayments) in any overpayment otherwise payable to such individual.”

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (3) of section 6103(a) of such Code is amended by striking “(1)(12)” and inserting “paragraph (6) or (12) of subsection (l)”.

(ii) Subparagraph (C) of section 6103(l)(6) of such Code, as redesignated by subsection (a), is amended to read as follows:

“(C) RESTRICTION ON DISCLOSURE.—Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.”

(iii) The material following subparagraph (F) of section 6103(p)(4) of such Code is amended by striking “subsection (l)(12)(B)” and inserting “paragraph (6)(A) or (12)(B) of subsection (l)”.

42 USC 653 note.

(h) REQUIREMENT FOR COOPERATION.—The Secretary of Labor and the Secretary of Health and Human Services shall work jointly to develop cost-effective and efficient methods of accessing the information in the various State directories of new hires and the National Directory of New Hires as established pursuant to the amendments made by this subtitle. In developing these methods the Secretaries shall take into account the impact, including costs, on the States, and shall also consider the need to insure the proper and authorized use of wage record information.

**SEC. 317. COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR USE IN CHILD SUPPORT ENFORCEMENT.**

Section 466(a) (42 U.S.C. 666(a)), as amended by section 315 of this Act, is amended by inserting after paragraph (12) the following new paragraph:

“(13) RECORDING OF SOCIAL SECURITY NUMBERS IN CERTAIN FAMILY MATTERS.—Procedures requiring that the social security number of—

“(A) any applicant for a professional license, commercial driver's license, occupational license, or marriage license be recorded on the application;

“(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and  
“(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number, the State shall so advise any applicants.”

**Subtitle C—Streamlining and Uniformity of Procedures**

**SEC. 321. ADOPTION OF UNIFORM STATE LAWS.**

Section 466 (42 U.S.C. 666) is amended by adding at the end the following new subsection:

“(f) UNIFORM INTERSTATE FAMILY SUPPORT ACT.—In order to satisfy section 454(20)(A), on and after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, together with any amendments officially adopted before January 1, 1998 by the National Conference of Commissioners on Uniform State Laws.”

**SEC. 322. IMPROVEMENTS TO FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.**

Section 1738B of title 28, United States Code, is amended—

- (1) in subsection (a)(2), by striking “subsection (e)” and inserting “subsections (e), (f), and (i)”;
- (2) in subsection (b), by inserting after the 2nd undesignated paragraph the following:

“child's home State” means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the State 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 6-month period.”

- (3) in subsection (c), by inserting “by a court of a State” before “is made”;
- (4) in subsection (c)(1), by inserting “and subsections (e), (f), and (g)” after “located”;
- (5) in subsection (d)—

(A) by inserting “individual” before “contestant”; and  
(B) by striking “subsection (e)” and inserting “subsections (e) and (f)”;

(6) in subsection (e), by striking “make a modification of a child support order with respect to a child that is made” and inserting “modify a child support order issued”;

(7) in subsection (e)(1), by inserting “pursuant to subsection (i)” before the semicolon;

(8) in subsection (e)(2)—  
(A) by inserting “individual” before “contestant” each place such term appears; and  
(B) by striking “to that court's making the modification and assuming” and inserting “with the State of continuing,

Secretary finds affords comparable rights to child support creditors; and

"(2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must—

"(A) seek to void such transfer; or

"(B) obtain a settlement in the best interests of the child support creditor."

**SEC. 365. WORK REQUIREMENT FOR PERSONS OWING PAST-DUE CHILD SUPPORT.**

(a) IN GENERAL.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 315, 317, and 323 of this Act, is amended by inserting after paragraph (14) the following new paragraph:

"(15) PROCEDURES TO ENSURE THAT PERSONS OWING PAST-DUE SUPPORT WORK OR HAVE A PLAN FOR PAYMENT OF SUCH SUPPORT.—

"(A) IN GENERAL.—Procedures under which the State has the authority, in any case in which an individual owes past-due support with respect to a child receiving assistance under a State program funded under part A, to issue an order or to request that a court or an administrative process established pursuant to State law issue an order that requires the individual to—

"(i) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

"(ii) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 407(d)) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.

"(B) PAST-DUE SUPPORT DEFINED.—For purposes of subparagraph (A), the term 'past-due support' means the amount of a delinquency, determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a child, or of a child and the parent with whom the child is living."

(b) CONFORMING AMENDMENT.—The flush paragraph at the end of section 466(a) (42 U.S.C. 666(a)) is amended by striking "and (7)" and inserting "(7), and (15)".

**SEC. 366. DEFINITION OF SUPPORT ORDER.**

Section 453 (42 U.S.C. 653) as amended by sections 316 and 345(b) of this Act, is amended by adding at the end the following new subsection:

"(p) SUPPORT ORDER DEFINED.—As used in this part, the term 'support order' means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing State, or a child and the parent with whom the child is living, which provides for monetary support, health care, arrearages, or reimbursement,

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AUG 15 2000


**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN  
2000 (SECOND) Regular Session**

**Bill No. 472 (COR)**

Introduced by:

J. C. Salas 

K. S. Moylan 

L. F. Kasperbauer 

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**AN ACT TO ADD ARTICLES 2, 3 AND §34154 TO CHAPTER 34, DIVISION 3, AND §63131 TO ARTICLE 1, CHAPTER 63, DIVISION 6, ALL TO TITLE 5, TO ADD §§3101(h)(6), 3111(m) AND 3111(n) TO ARTICLE 1, CHAPTER 3 OF TITLE 16, TO ADD §34102(j) TO CHAPTER 34, DIVISION 3 OF TITLE 7, AND TO ADD §5503(d) TO CHAPTER 5A, DIVISION 1 OF TITLE 19, ALL OF THE GUAM CODE ANNOTATED, RELATIVE TO PROVIDING GUIDELINES FOR THE SUPPORT OF CHILDREN ON GUAM.**

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

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

finds that Public Law Number 24-116 provided guidelines for the support of children on Guam. Contained within §13 of the law was a sunset provision calling for certain sections of the legislation to expire on September 30, 1999. Such provisions did in fact expire pursuant to law. In order to secure Federal Funding, *I Liheslaturan Guåhan* intends that the provisions of law become permanent at the recommendation of the Department of Law.

In order to curtail the ever growing disintegration of marriages and relationships creating single parent households, as well as rectify an

1 ambiguity and inequity in the manner in which the Child Support Guidelines  
2 are applied to parents electing to exercise joint and equal custody of their  
3 children, *I Liheslaturan Guåhan* has also provided for such situations in §8 of  
4 this Act.

5 "ARTICLE 2.

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

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

17 Section 34202. Definitions. As used in this Article:

18 (a) 'Administrative hearing' means a hearing conducted  
19 in accordance with the Administrative Adjudication Law, 5 GCA  
20 §§9100-9241.

21 (b) 'Compliance with an order of support' means the total  
22 of a non-custodial parent's overdue and unpaid court ordered  
23 current child support payments for which no payment has been  
24 ordered thereon, or overdue and unpaid court ordered payments  
25 on an arrearage, is not greater than three (3) months accrual from  
26 the effective date of this Act or the date of the order pursuant to

1 which payments were to be made, whichever is later.

2 (c) **'Court order of support'** means any judgment or order  
3 for the support of dependent children, or for payments on an  
4 arrearage arising out of failure to comply with such judgment or  
5 order, issued by any court of Guam, another territory, or a State,  
6 including an order in a final decree of divorce or judgment or  
7 order issued in accordance with an administrative procedure  
8 established by State or local law that affords substantial due  
9 process and is subject to judicial review.

10 (d) **'Department'** means the Department of Law, *unless*  
11 otherwise expressly provided, or *unless* the context clearly  
12 requires otherwise.

13 (e) **'Hearing officer'** means a hearing officer within the  
14 meaning of the Administrative Adjudication Law, 5 GCA §§9100-  
15 9241.

16 (f) **'Licensing body'** means any board, commission,  
17 department, division, bureau or officer of the Island of Guam  
18 authorized by law to grant, issue, renew, condition, limit, suspend  
19 or revoke an authority, license, privilege or right to hunt, fish,  
20 operate a motor vehicle or engage in a business occupation,  
21 profession or industry.

22 (g) **'Non-compliance with an order of support'** means the  
23 total of a non-custodial parent's overdue and unpaid court  
24 ordered current child support payments for which no payment has  
25 been ordered thereon, or overdue and unpaid court ordered  
26 payments on an arrearage, is *greater than* three (3) months

1           accrual from the effective date of this Act or the date of the order  
2           pursuant to which payments were to be made, whichever is later.

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

6           **Section 34203. Notice of Proposed Action.**

7           (a) *If* a non-custodial parent is in non-compliance with a  
8           court order of support, the Department may serve the non-  
9           custodial parent with a notice of proposed action indicating its  
10          intention to certify to a licensing body that has issued a license to  
11          the non-custodial parent, that the non-custodial parent is in non-  
12          compliance with a court order of support.

13          (b) The notice of proposed action shall inform the non-  
14          custodial parent that the Department will certify the non-  
15          custodial parent's non-compliance to the licensing body, *unless*,  
16          within twenty (20) days of service of the notice of proposed action,  
17          the non-custodial parent undertakes one of the following actions:

18                  (1) files a petition for an administrative hearing, *or*

19                  (2) files with the court a motion to establish  
20          payments on an arrearage for which no payments have been  
21          ordered, a motion to modify an order for payments on an  
22          arrearage so as to encompass arrears for which no payment  
23          had been theretofore ordered, or a motion to modify an  
24          existing order for payments on the arrearage; *provided*,  
25          payment on arrears has *not* been established or modified in  
26          the previous two (2) years; *or*

1 (3) comes into compliance with the court order of  
2 support, and is issued written confirmation of compliance.

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

6 (d) Service of the notice of proposed action must be made  
7 by personal service or, if unable to locate the non-custodial  
8 parent, then by certified mail, return receipt requested.

9 **Section 34204. Stay of Action.**

10 (a) *If* the non-custodial parent petitions for an  
11 administrative hearing within twenty (20) days of service of the  
12 notice of proposed action, the Department shall stay action to  
13 certify the non-custodial parent to any licensing body for non-  
14 compliance with a court order of support, until thirty (30) days  
15 after the Department serves a decision after hearing that finds  
16 the absent parent is in non-compliance with the order of support.

17 (b) *If* payment on arrears has *not* been established or  
18 modified in the previous two (2) years, the Department shall stay  
19 action to certify a non-custodial parent to a licensing body for  
20 non-compliance with a court order of support for ninety (90) days  
21 *if* the non-custodial parent files with the court and serves on the  
22 Department, within twenty (20) days of the date the notice of  
23 proposed action is served on the non-custodial parent, a motion  
24 to:

25 (1) establish payments on an arrearage for which no  
26 payments have been ordered; *or*

1                   (2)   modify an order for payments on an arrearage  
2                   so as to encompass arrears for which no payment has  
3                   theretofore been ordered, or to modify an existing order for  
4                   payments on the arrearage.

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

11                  **Section 34205.   Petition for Administrative Hearing.**

12                  (a)   A non-custodial parent may file a petition for an  
13                  administrative hearing after being served the notice of proposed  
14                  action.

15                  (b)   Upon receipt of the petition for hearing the  
16                  Department acquires jurisdiction of the non-custodial parent for  
17                  purposes of adjudication of the non-custodial parent's petition for  
18                  hearing under the Administrative Adjudication Law 5 GCA  
19                  §§9100-9241.

20                  **Section 34206.   Hearing.**

21                  (a)   An Administrative Hearing Officer shall conduct a  
22                  hearing petitioned for by the non-custodial parent pursuant to the  
23                  Administrative Adjudication Law 5 GCA §§9100-9241. Issues that  
24                  may be decided at the hearing shall be limited to whether:

25                          (1)   the non-custodial parent is required to pay child  
26                          support under a court order of support;

1 (2) the non-custodial parent is in compliance with a  
2 court order of support;

3 (3) payment on arrears has been established or  
4 modified in the two (2) years previous to the service of the  
5 notice of proposed action;

6 (4) the non-custodial parent has been served with  
7 more than two (2) notices of proposed action in the past five  
8 (5) years.

9 **Section 34207. Decision After Hearing.**

10 (a) The Hearing Officer shall issue a decision after  
11 hearing without undue delay. The decision must be based on the  
12 hearing record only.

13 (b) The Department shall personally serve or send a copy  
14 of the decision to the non-custodial parent by certified mail, return  
15 receipt requested.

16 (c) The decision must inform the non-custodial parent of  
17 the non-custodial parent's right to appeal in accordance with the  
18 Administrative Procedure Act, 5 GCA §§9100-9241.

19 **Section 34208. Judicial Review.** A non-custodial parent  
20 may appeal in accordance with the Administrative Adjudication Law, 5  
21 GCA §§9100-9241, the Hearing Officer's decision with respect to  
22 whether the non-custodial parent is obligated under a court order of  
23 support to pay child support, whether the non-custodial parent is in  
24 compliance with such an order, whether payments on arrears were  
25 established or modified in the two (2) years previous to the service of  
26 the notice of action, or whether the non-custodial parent has been

1 served with more than two (2) notices of proposed action in the past  
2 five (5) years.

3 **Section 34209. Certification to Licensing Body.**

4 (a) The Department shall certify that a non-custodial  
5 parent is in non-compliance with a court order of support, and file  
6 that certification with a licensing body that has issued the non-  
7 custodial parent a license *if*:

8 (1) the non-custodial parent has been served with a  
9 notice of proposed action, the non-custodial parent has *not*  
10 requested a hearing or filed a motion to establish or modify  
11 payment on the arrearage within twenty (20) days of the  
12 date of the notice of proposed action was served on the non-  
13 custodial parent and the non-custodial parent is in non-  
14 compliance at the expiration of the twenty (20) day time  
15 period;

16 (2) the Department issues a decision after hearing  
17 that the non-custodial parent is in non-compliance with a  
18 court order of support, and the non-custodial parent has *not*  
19 appealed within thirty (30) days of the date the decision is  
20 mailed to the non-custodial parent;

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

23 (4) a motion to establish or modify payment on  
24 arrears has been filed, but it has *not* been decided within  
25 ninety (90) days of the date of the filing of the motion,  
26 payment on arrears has been established or modified in the



1 previous two (2) years, or the motion to modify payment on  
2 arrears has been denied.

3 (b) The Department shall send by certified mail a copy of  
4 the certification issued under Subsection (a) of this Section to the  
5 non-custodial parent.

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

24 **Section 34211. Written Confirmation of Compliance.** *If* a non-  
25 custodial parent who is served with a notice of proposed action or is  
26 certified to a licensing body subsequently comes into compliance with a

1 court order of support, the Department shall provide the non-custodial  
2 parent and the licensing bodies with written confirmation that the non-  
3 custodial parent is in compliance with this order within twenty-four (24)  
4 hours of compliance.

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

14 **Section 34213. Suspension, Non-issuance and Non-renewal of**  
15 **Licenses.** A licensing body shall suspend the license of a non-custodial  
16 parent who has been certified as being in non-compliance with a court  
17 order of support, and may *not* issue or renew the license of a non-  
18 custodial parent who has been certified as being in non-compliance with  
19 a court order of support or payment agreement, until the non-custodial  
20 parent or the Department provides the licensing body with written  
21 confirmation from the Department or the Superior Court of Guam that  
22 the non-custodial parent is in compliance with the court order.

23 **Section 34214. Notice from Licensing Body.** A licensing body  
24 shall notify a non-custodial parent certified by the Department to be in  
25 non-compliance at least ten (10) days prior to denial or suspension, that  
26 the non-custodial parent's application for issuance or renewal of a

1 license will *not* be granted or that the non-custodial parent's license has  
2 been suspended because the non-custodial parent's name has been  
3 certified by the Department as being in non-compliance with a court  
4 order of support. A notice of suspension must specify the effective date  
5 of the suspension, and that the suspension will continue in effect, or the  
6 license will *not* be issued or renewed until the non-custodial parent  
7 provides the licensing body with the Department's written confirmation  
8 that the non-custodial parent is in compliance with the court order of  
9 support.

10 **Section 34215. Subsequent Re-issuance, Renewal or Other**  
11 **Extension of License.** After receipt of written confirmation of  
12 compliance, a licensing body shall, within five (5) working days, reissue,  
13 renew, or otherwise extend a license against which action had been  
14 taken for non-compliance with an order for support. The re-issuance,  
15 renewal, or other extension of the license after receipt of written  
16 confirmation of compliance shall occur pursuant to the requirements of  
17 the licensing body, *except* that the licensing body may waive any  
18 applicable requirement for re-issuance, renewal or other extension *if*  
19 determines that the imposition of that requirement places an undue  
20 burden on the non-custodial parent and that waiver of that requirement  
21 is consistent with the public interest.

22 **Section 34216. Claim of Special Need.** A non-custodial  
23 parent whose vehicle operator's license is suspended for non-  
24 compliance with a court order of support may request the Department  
25 to issue a written statement that permits the Director of the  
26 Department of Revenue and Taxation to issue a temporary license

1 valid for a period *not to exceed* one hundred twenty (120) days. The  
2 Department may grant such requests only upon a showing of medical  
3 need or work requirement to obtain a temporary license and *only if* the  
4 non-custodial parent demonstrates that person's intention to come into  
5 compliance with the court order of support.

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

13 **Section 3.** Section 3101(h)(6) is hereby *added* to Article 1, Chapter 3 of  
14 Title 16 of the Guam Code Annotated to read as follows:

15 "(6) Who has been certified by the Department of Law as being in  
16 non-compliance with a court order of support, *unless* a confirmation of  
17 compliance from the Department of Law or the Superior Court of  
18 Guam is received by the Director of Revenue and Taxation."

19 **Section 4.** Section 3111(m) is hereby *added* to Article 1, Chapter 3 of  
20 Title 16 of the Guam Code Annotated to read as follows:

21 "(m) The Director of Revenue and Taxation shall suspend the  
22 privilege of any person to operate a motor vehicle upon a highway  
23 upon receipt of a certification from the Department of Law that the  
24 person is in non-compliance with a court order of support, such  
25 suspension to remain in effect until a confirmation of compliance from  
26 the Department of Law or the Superior Court of Guam is received."

1       **Section 5.** Section 3111(n) is hereby *added* to Article 1, Chapter 3 of  
2 Title 16 of the Guam Code Annotated to read as follows:

3           “(n) At the request of a non-custodial parent whose operator's  
4 license has been suspended for non-compliance with a court order of  
5 support under Subsection (m) of this Section, the Director of Revenue  
6 and Taxation may issue the non-custodial parent a temporary  
7 operator's license valid for a period *not to exceed* one hundred twenty  
8 (120) days.”

9       **Section 6.** Section 63131 is hereby *added* to Article 1, Chapter 63,  
10 Division 6 of Title 5 of the Guam Code Annotated to read as follows:

11           **“Section 63131. Nonpayment of Child Support.** The Director  
12 of Agriculture shall *not* issue or re-issue any annual hunting or fishing  
13 license provided under this Article or regulations adopted under this  
14 Article to any person upon receipt of a certification from the  
15 Department of Law that the person is in non-compliance with a court  
16 order of support, and shall suspend any such license in effect at the time  
17 of receipt of such certification, with such suspension to remain in effect  
18 until a confirmation of compliance is received from the Department of  
19 Law.”

20       **Section 7.** Section 34102(j) is hereby *added* to Chapter 34, Division 3 of  
21 Title 7 of the Guam Code Annotated to read as follows:

22           “(j) In any contempt action involving support, if the court finds  
23 that a contempt occurred, the court may order the suspension of a  
24 motor vehicle operator's license, a professional or occupational license,  
25 or recreational license, or order denial of an application therefor, until  
26 the contemnor purges that person's contempt in such manner as the

1 court directs.”

2 **Section 8.** Section 34154 is hereby *added* to Article 1, Chapter 34,  
3 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

4 **“Section 34154. Joint and Equal, Legal and Physical Custody**  
5 **Support Orders.**

6 (a) **Legislative Findings and Intent.** *I Liheslaturan*  
7 *Guåhan* finds that the current child support guidelines are based  
8 upon an absent parent, or non-custodial, formula. They do *not*  
9 provide for joint or shared custody arrangements where both  
10 parents incur their separate costs for child care during their equal  
11 custody. The support guidelines also erroneously do not define  
12 who is the “custodial parent” in joint custody arrangements.  
13 *However*, many cases exist, and the trend increases, where both  
14 parents agree to, or are awarded by the Courts, joint and equal,  
15 physical and legal custody of their child or children, to the benefit  
16 of children and our Community. *I Liheslaturan Guåhan* finds that  
17 involvement and care by both parents fundamentally benefits the  
18 welfare and healthy development of the child and our  
19 Community, and reinforces the Fundamental Right to raise one’s  
20 children, protected by the U.S. Constitution and the 1950 Guam  
21 Organic Act. *I Liheslaturan Guåhan* wishes to promote and  
22 encourage this social and societal good, especially in the face of  
23 the ever increasing disintegrating marriages and relationships on  
24 Guam. Promoting and encouraging the joint care of our children  
25 by their parents will improve and better socialize our next  
26 generation of young adults, who are increasingly coming from

1 broken homes. If the parents cannot live as a traditional nuclear  
2 family, then the children are better off having both parents in their  
3 lives separately versus not at all.

4 In joint custody cases each parent bears *equal* financial  
5 responsibility for caring for the educational, physical and  
6 emotional needs of their children while in that parent's custody.  
7 The application of the child support guidelines in joint custody  
8 situations unfairly discriminates against the parent earning the  
9 greater income, especially when both parents are earning what is  
10 considered "middle income" or higher income amounts. Applying  
11 the child support guidelines in joint custody cases improperly  
12 misconstrues child support into alimony or palimony.

13 Recent Superior Court of Guam decisions likewise  
14 recognize the deficiency in the child support guidelines with  
15 respect to situations involving joint and equal, legal and physical  
16 parental custody and apply "equity," acknowledging the  
17 deficiency in the child support guidelines. However, what is  
18 equitable differs between persons and judges. *I Liheslaturan*  
19 *Guåhan* also intends to create a "safety net" for preventing poor  
20 living conditions for a child in joint custody arrangements by  
21 permitting court ordered support by one parent *only* when one  
22 parent is eligible for and receives Federal welfare support.  
23 Further, this Section shall only apply when "actual" custody is  
24 exercised between the parties, otherwise the child support  
25 guidelines shall apply. Finally, without *I Liheslaturan Guåhan*  
26 setting maximum ceilings for each parent's income before child

1 support is warranted in joint and equal, legal and physical custody  
2 situations, court awards will be unevenly or unfairly applied by  
3 varying courts, and promote forum or judge shopping.

4 (b) Notwithstanding any other provision of law,  
5 including the child support guidelines, in the event that a Court  
6 orders permanent *or* temporary, joint and equal legal and  
7 physical custody to the parents of a child, or children, neither  
8 parent shall be entitled to receive child support from the other  
9 parent if *actual* joint physical custody is exercised and *if* the Court  
10 determines that the income received by each household is  
11 sufficient to support the children which are the subject of the  
12 custody order at an appropriate moderate standard of living  
13 while the children reside in each household without financial  
14 support from the other parent. In such cases the Court may only  
15 make orders for the *equal* sharing of actual costs between the  
16 parents in strictly *equal* amounts to include education, medical  
17 and dental, orthodontic, psychiatric, psychological or other  
18 *extraordinary* expenses *not* related to their separate care of the  
19 child or children. In the event that a parent applies and qualifies  
20 for Federal welfare assistance or is unable to provide the children  
21 with a sufficient moderate standard of living without financial  
22 support from the other parent, the Court may order a temporary  
23 or permanent support amount solely for the welfare of the child,  
24 or children, *if* the children's living conditions warrant, for the  
25 duration that the parent is eligible for and receives Federal  
26 welfare assistance. In no event may any court calculate the child



1 support obligation of any parent pursuant to any child support  
2 guidelines, by considering any income of any parent exceeding  
3 Seventy-five Thousand Dollars (\$75,000.00) per annum.

4 This Section shall apply to *all* existing and future,  
5 temporary or permanent Court orders for child support,  
6 stipulated or otherwise. A parent exercising temporary or  
7 permanent, joint and equal, legal and physical custody of their  
8 child, or children, may move for modification of an existing Court  
9 order based upon this Section, but in no case may receive  
10 reimbursement for past support paid or due."

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

13 **"ARTICLE 3.**

14 **NEW HIRE DIRECTORY.**

15 **Section 34301. Definitions.** As used in this Article:

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

17 (1) the first day for which an employee is owed  
18 compensation by an employer; *or*

19 (2) the first day that an employee reports to work or  
20 performs labor or services for an employer.

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

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

1           (d) **'Independent Contractor'** means a person who  
2 performs services for remuneration for another person who does  
3 not have the right to control and direct the person in the  
4 performance of such service, but is liable in contract to that other  
5 person for the results attained through such service.

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

10           (1) if the person for whom the individual performs  
11 the services does not have control of the payment of the  
12 wages for such services, the term 'employer' means the  
13 person having control of the payment of such wages, *and*

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

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

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

1           **Section 34303. Duty to Report.**

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

7           (b) An employer is *not* required to report to the Director  
8 of New Hires the hiring of any person who will:

9                   (1) be employed for less than three (3) months  
10 duration;

11                   (2) have gross earnings of less than Three-hundred  
12 Dollars (\$300.00) per month;

13                   (3) be employed intermittently, such that the  
14 employee will be paid for less than three hundred and fifty  
15 (350) hours during a continuous six (6) month period.

16           **Section 34304. Penalty.**

17           (a) An employer who:

18                   (1) fails to file reports as required by the  
19 Department of Law, Family Division and has *not* previously  
20 received a written notice of non-compliance, shall receive  
21 written notice of non-compliance;

22                   (2) fails to file reports as required by this Chapter  
23 and has previously received written notice of non-  
24 compliance, is subject to a civil penalty of Twenty-four  
25 Dollars (\$24.00) for each intentionally unreported employee,  
26 *except* that the penalty shall be Four Hundred Ninety-nine

1 Dollars (\$499.00) for each intentionally unreported  
2 employee *if* the failure to report is the result of a conspiracy  
3 between the employer and the employee *not* to supply the  
4 required report or to supply a false or incomplete report.

5 (b) The written notice of non-compliance furnished under  
6 (a) of this Section shall request that the employer comply with the  
7 reporting requirements of this Article, and advise the employer of  
8 the penalty for non-compliance.

9 **Section 34305. Means to Report.**

10 (a) Employers may report by delivering, mailing, or tele-  
11 faxing a copy of the employee's Federal W-4 form or W-9 form or  
12 any other document that contains the required information,  
13 transmitting the required information by electronic or magnetic  
14 means in a compatible format, or by other means authorized by  
15 the Director of the Department of Law that will result in timely  
16 reporting.

17 (b) *If* an employer transmits information magnetically or  
18 electronically, the employer shall submit the report:

19 (1) twice a month, *and*

20 (2) *not less than* twelve (12) days or more than  
21 sixteen (16) days apart.

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

26 **Section 34306. Information Required to Be Reported. Reports**

1 required under §34303 of this Chapter must contain:

2 (1) the employee's name, address, social security number,  
3 and date of birth when available, which can be handwritten or  
4 otherwise added to the W-4 form, W-9 form or other document  
5 submitted; *and*

6 (2) the employer's name, address, and federal  
7 identification number.

8 **Section 34307. Access to and Disposition of Data.**

9 (a) The Director of New Hires shall destroy information  
10 supplied by employers relating to the hiring of employees six (6)  
11 months after the information is supplied to it. Data contained in  
12 the Directory of New Hires shall be disclosed only to the Family  
13 Division in the Office of the Attorney General, and other Guam  
14 and Federal agencies as authorized by Federal law.

15 (b) Within three (3) working days after the data  
16 information is reported to the Department of Law's Director of  
17 New Hires, the Department of Law shall furnish the information  
18 to the National Directory of New Hires.

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

1           **Section 34308. Government of Guam to Report Hiring of**  
2           **Independent Contractors.** The government of Guam, when acting in  
3           the capacity of contractee, shall report the execution of a contract with  
4           any person as an independent contractor to the Director of New Hires  
5           in the same manner as the hiring of an employee is reported.”

6           **Section 10.** Section 5503(d) is hereby *added* to Chapter 5A,  
7           Division 1 of Title 19 of the Guam Code Annotated to read as follows:

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

11          **Section 11. Severability.** *If* any provision of this Law or part  
12          contained in any Section, or its application to any person or circumstance is  
13          found to be invalid or contrary to law, such invalidity shall *not* affect other  
14          provisions or applications of this Law which can be given effect without the  
15          invalid provisions or application, and to this end the provisions of this Law  
16          are severable.