



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY  
ACKNOWLEDGMENT RECEIPT

Received By 8

Time 3:00 pm

Date 09/27/02

SEP 27 2002

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

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 214 (LS) "AN ACT TO REPEAL, REENACT, ADD AND AMEND SECTIONS OF TITLES 4 AND 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE DUTY OF GOVERNMENTAL AGENCIES AND PRIVATE ENTITIES TO PROVIDE INFORMATION FOR CHILD SUPPORT PURPOSES, AND TO PROVIDE SAFEGUARDS FOR UNAUTHORIZED DISCLOSURE THEREFORE; TO ENSURE DUE PROCESS IN ADMINISTRATIVE ACTIONS; TO PROVIDE FOR COURT ORDERED JOB SEARCH FOR UNEMPLOYED OR UNDEREMPLOYED ABSENT PARENTS; TO AUTHORIZE AGREEMENTS WITH FINANCIAL INSTITUTIONS; TO REQUIRE SOCIAL SECURITY NUMBERS ON PROFESSIONAL OR OCCUPATIONAL LICENSE OR CERTIFICATE APPLICATIONS; TO PROVIDE FOR VARIOUS EXPEDITED ADMINISTRATIVE PROCEDURES; TO PROVIDE FOR ADDITIONAL GUIDELINES FOR THE DIRECTORY OF NEW HIRES; AND TO PROVIDE FOR THE NATIONAL MEDICAL SUPPORT NOTICE, ALL RELATIVE TO BRINGING GUAM'S CHILD SUPPORT ENFORCEMENT PROGRAM INTO FEDERAL COMPLIANCE," which was signed into law as **Public Law No. 26-148**.

This legislation contains various provisions that are required by the federal government in order to keep the child support enforcement program of the Department of Law in conformance with federal grant requirements.

Very truly yours,

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

Attachments: original bill for vetoed legislation or  
copy of bill for signed or overridden legislation  
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco  
Speaker

Office of the Speaker  
ANTONIO R. UNPINGCO  
Date: 09-27-02  
Time: 1445  
Rec'd by: [Signature]  
Print Name: [Signature]

0951

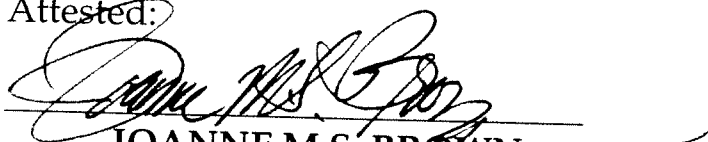
**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2002 (SECOND) Regular Session**

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

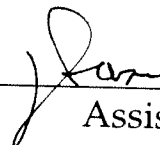
This is to certify that Substitute Bill No. 214(LS), "AN ACT TO REPEAL, REENACT, ADD AND AMEND SECTIONS OF TITLES 4 AND 5 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE DUTY OF GOVERNMENTAL AGENCIES AND PRIVATE ENTITIES TO PROVIDE INFORMATION FOR CHILD SUPPORT PURPOSES, AND TO PROVIDE SAFEGUARDS FOR UNAUTHORIZED DISCLOSURE THEREFORE; TO ENSURE DUE PROCESS IN ADMINISTRATIVE ACTIONS; TO PROVIDE FOR COURT ORDERED JOB SEARCH FOR UNEMPLOYED OR UNDEREMPLOYED ABSENT PARENTS; TO AUTHORIZE AGREEMENTS WITH FINANCIAL INSTITUTIONS; TO REQUIRE SOCIAL SECURITY NUMBERS ON PROFESSIONAL OR OCCUPATIONAL LICENSE OR CERTIFICATE APPLICATIONS; TO PROVIDE FOR VARIOUS EXPEDITED ADMINISTRATIVE PROCEDURES; TO PROVIDE FOR ADDITIONAL GUIDELINES FOR THE DIRECTORY OF NEW HIRES; AND TO PROVIDE FOR THE NATIONAL MEDICAL SUPPORT NOTICE, ALL RELATIVE TO BRINGING GUAM'S CHILD SUPPORT ENFORCEMENT PROGRAM INTO FEDERAL COMPLIANCE.," was on the 4<sup>th</sup> day of September, 2002, duly and regularly passed.

  
\_\_\_\_\_  
**ANTONIO R. UNPINGCO**  
Speaker

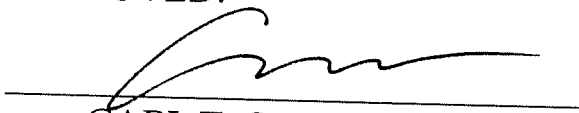
Attested:

  
\_\_\_\_\_  
**JOANNE M.S. BROWN**  
Senator and Legislative Secretary

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This Act was received by *I Maga'lahen Guåhan* this 17 day of September, 2002,  
at 1155 o'clock P.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

  
\_\_\_\_\_  
**CARL T. C. GUTIERREZ**  
*I Maga'lahen Guåhan*

Date: 9.27.02

Public Law No. 26-148

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

**Bill No. 214 (LS)**

As substituted by the Committee  
on Power, Public Safety and the  
Judiciary and amended.

Introduced by:

Chairman, Committee on Rules,  
General Governmental  
Operations, Reorganization and  
Reform and Federal, Foreign  
and General Affairs

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by request of *I Maga'lahen*  
*Guåhan*, in accordance with  
the Organic Act of Guam.

Mark Forbes

J. F. Ada

T. C. Ada

F. B. Aguon, Jr.

J. M.S. Brown

E. B. Calvo

F. P. Camacho

M. C. Charfauros

L. F. Kasperbauer

L. A. Leon Guerrero

K. S. Moylan

V. C. Pangelinan

A. L.G. Santos

A. R. Unpingco

J. T. Won Pat

**AN ACT TO REPEAL, REENACT, ADD AND AMEND  
SECTIONS OF TITLES 4 AND 5 OF THE GUAM CODE  
ANNOTATED, RELATIVE TO THE DUTY OF  
GOVERNMENTAL AGENCIES AND PRIVATE  
ENTITIES TO PROVIDE INFORMATION FOR CHILD  
SUPPORT PURPOSES, AND TO PROVIDE**

SAFEGUARDS FOR UNAUTHORIZED DISCLOSURE  
THEREFORE; TO ENSURE DUE PROCESS IN  
ADMINISTRATIVE ACTIONS; TO PROVIDE FOR  
COURT ORDERED JOB SEARCH FOR UNEMPLOYED  
OR UNDEREMPLOYED ABSENT PARENTS; TO  
AUTHORIZE AGREEMENTS WITH FINANCIAL  
INSTITUTIONS; TO REQUIRE SOCIAL SECURITY  
NUMBERS ON PROFESSIONAL OR OCCUPATIONAL  
LICENSE OR CERTIFICATE APPLICATIONS; TO  
PROVIDE FOR VARIOUS EXPEDITED  
ADMINISTRATIVE PROCEDURES; TO PROVIDE FOR  
ADDITIONAL GUIDELINES FOR THE DIRECTORY  
OF NEW HIRES; AND TO PROVIDE FOR THE  
NATIONAL MEDICAL SUPPORT NOTICE, ALL  
RELATIVE TO BRINGING GUAM'S CHILD SUPPORT  
ENFORCEMENT PROGRAM INTO FEDERAL  
COMPLIANCE.

1           BE IT ENACTED BY THE PEOPLE OF GUAM:

2           Section 1. Legislative Findings. The Child Support Enforcement Office  
3 within the Department of Law administers Guam's child support enforcement  
4 program pursuant to a State Plan and applicable Federal laws. Oversight is  
5 provided by the Region IX Administrator for Children and Families under the  
6 United States Department of Health and Human Services. Guam's program has  
7 been behind in its Federal compliance responsibilities for lack of an appropriate  
8 legal framework within which to operate the local program brought about by  
9 new Federal laws with which Guam must comply. The Child Support  
10 Enforcement Office must bring Guam's program into compliance immediately  
11 with its State Plan obligations in the areas of collection and use of social security  
12 numbers for child support enforcement purposes; work requirements for persons  
13 owing past due child support; financial institution data matches; expedited

1 administrative and judicial procedures; privacy safeguards; and Guam's  
2 Directory of New Hires. *I Liheslaturan Guåhan* finds that certain additions and  
3 revisions to Guam's child support laws are necessary so that Guam's child  
4 support enforcement program meets the latest Federal requirements. It is the  
5 intent of *I Liheslaturan Guåhan* to enable the Child Support Enforcement Office to  
6 administer its program to the utmost of its abilities in accordance with Federal  
7 guidelines, and in the best interest of children who are in need of support.

8 **Section 2.** Section 34103.1(b) is hereby *added* to Article 1, Chapter 34,  
9 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

10 "(b) Any administrative action against an obligor to secure assets to  
11 satisfy child support arrearage and current support obligation, including  
12 but not limited to, intercepting or seizing periodic payments, or attaching  
13 and seizing assets of the obligor's property as provided by law, shall in all  
14 cases provide for:

15 (1) written notice to the obligor and to the custodial parent of  
16 the action to be taken and the legal basis for that action;

17 (2) the opportunity for the obligor to contest the action and  
18 to request a hearing on the matter; *and*

19 (3) the opportunity for the obligor to appeal on the record."

20 **Section 3.** Section 34103.1(c) is hereby *added* to Article 1, Chapter 34,  
21 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

22 "(c) Any hearing or appeal resulting from the administrative action  
23 shall be to the Judicial Hearings Division of the Superior Court of Guam."

24 **Section 4.** Section 34105(a) of Article 1, Chapter 34, Division 3 of Title 5 of  
25 the Guam Code Annotated is hereby *amended* to read as follows:

1           “(a) *I Liheslaturan Guåhan* has determined there is public policy in  
2 favor of establishing paternity, of having parents support their children,  
3 and in having fair and equitable support orders. Therefore, whether or not  
4 the minor children have been or are recipients of public assistance, the  
5 Department acting in the best interests of the children and the Island of  
6 Guam, may bring an action in its own name or join in an action already in  
7 existence against the person or persons responsible for the support of such  
8 children:

9           (1) to recover such amounts of back support and any other  
10 amounts as may be due and owing under an existing court order,  
11 whether owed to the Department or to the custodial parent or other  
12 person having custody of the minor child;

13           (2) for a continuing order of support for the benefit of such  
14 children;

15           (3) to establish paternity;

16           (4) to move to modify existing orders up or down as the  
17 circumstances and equity demand;

18           (5) to obtain orders of wage assignment;

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

22           (7) to recover necessary expenses incurred by or for the  
23 mother in connection with the birth of her child, for the funeral  
24 expenses if the child has died, for expenses incurred in connection  
25 with pregnancy of the mother, except as limited by (b) of this Section;

1 (8) to recover reimbursement of the cost of support for the  
2 child before the commencement of the action, determined by using  
3 the appropriate Child Support Guidelines currently in effect, *except* as  
4 limited by (b) of this Section; *and*

5 (9) to obtain orders requiring the obligor owing back support  
6 to pay in accordance with a plan approved by the court or child  
7 support enforcement agency, and to seek court ordered job searches  
8 as necessary for unemployed or underemployed absent parents;  
9 *provided*, that if an obligor is under an approved payment plan but *not*  
10 working and *not* incapacitated, the obligor shall be ordered to  
11 participate in a job search."

12 **Section 5.** Section 34109 of Article 1, Chapter 34, Division 3 of Title 5 of the  
13 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

14 **"Section 34109. Authority of Attorney General to Request**  
15 **Information; Compliance with Request.** (a) The Attorney General  
16 and any other State's IV-D agency may request the following information  
17 to carry out the provisions of this Chapter, and such information shall be  
18 provided upon request:

19 (1) The records of the following public officers and local agencies:

20 (A) the Office of Vital Statistics of the Department of Public  
21 Health and Social Services;

22 (B) the Division of Public Welfare of the Department of  
23 Public Health and Social Services;

24 (C) the Motor Vehicle Division of the Department of Revenue  
25 and Taxation;

1 (D) any tax or business licensing branches or divisions of the  
2 Department of Revenue and Taxation with regard to the following,  
3 but *not* limited thereby: income, revenue, assets, and other financial  
4 information; residential addresses of individuals; identity of  
5 employers; and ownership and control of corporations, partnerships  
6 and other business entities;

7 (E) the Records Division of the Department of Land  
8 Management;

9 (F) all boards, commissions and agencies which issue  
10 occupational or professional licenses, certificates or permits;

11 (G) the Department of Labor;

12 (H) the Department of Integrated Services for Individuals  
13 with Disabilities;

14 (I) the Guam Housing and Urban Renewal Authority;

15 (J) the Department of Corrections;

16 (K) any law enforcement agencies or any other agencies  
17 which maintain records of criminal history; and

18 (L) any other agencies administering any public assistance  
19 program.

20 (2) The records of any public utilities, internet and long distance  
21 services or carriers, and community antenna or cable television companies  
22 with regard to their customers' names, addresses, and employer's names  
23 and addresses;

24 (3) Information in the possession of financial institutions  
25 relating to the assets and liabilities of their customers. Financial



1 institutions shall not be liable for such disclosure. As used in this  
2 Section, 'financial institution' is defined in 5 G.C.A. § 34109.1;

3 (4) Information in the possession of any public or private  
4 employer or other entity, including but *not* limited to, for-profit and  
5 non-profit entities, relating to the employment, compensation and  
6 benefits of any individuals employed by such entity as an employee  
7 or as an independent contractor.

8 (b) 'If a person or other entity fails to supply the  
9 information requested pursuant to Subsection (a) of this §  
10 34109, the Attorney General may issue a subpoena to compel  
11 the person or entity to provide that information. The Attorney  
12 General and any other State's IV-D agency may request any  
13 information necessary to carry out the provisions of this  
14 Chapter or the provisions of such State's child support  
15 enforcement program in accordance with applicable Federal or  
16 State law. Any person or entity that fails to comply with a  
17 request made pursuant to § 34109 is subject to a civil penalty of  
18 not more than Five Hundred Dollars (\$500.00) for each failure  
19 to comply'."

20 **Section 6.** Section 34110 of Article 1, Chapter 34, Division 3 of Title 5 of the  
21 Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

22 **"Section 34110. Unauthorized Disclosure of Information; Civil**  
23 **Damages.** (a) A disclosure made in good faith pursuant to § 34109  
24 shall not give rise to any action for damages for the disclosure; *except*  
25 that with regard to financial records from financial institutions, such

1 information may be disclosed only for the purpose of establishing,  
2 modifying or enforcing a child support obligation. 'Financial record'  
3 as used in §§ 34109 and 34110 shall have the same meaning as  
4 defined in § 1101 of the Right to Financial Privacy Act of 1978 (12  
5 U.S.C. 3401), as may be amended.

6 (b) The individual whose financial records were disclosed  
7 may bring a civil action in the District Court of Guam pursuant to 42  
8 U.S.C. 669a. Any public officer or employee who knowingly or  
9 negligently discloses a financial record for purposes other than as  
10 authorized is liable for (1) the costs and attorneys' fees of the action,  
11 and (2) damages in an amount equal to the greater of (i) the sum of  
12 One Thousand Dollars (\$1,000.00) for each act of unauthorized  
13 disclosure, or (ii) the sum of the actual damages sustained by reason  
14 of the unauthorized disclosure plus punitive damages if the  
15 disclosure is willful or is a result of gross negligence; except that no  
16 liability shall be found where there is a good faith disclosure of a  
17 financial record, but erroneous interpretation of Subsection (a) of  
18 this § 34110 with regard to financial records.

19 (c) The provisions of § 34310 are in addition to any other  
20 remedies available."

21 **Section 7.** Section 34109.1(a) of Article 1, Chapter 34, Division 3 of Title 5  
22 of the Guam Code Annotated is hereby *amended* to read as follows:

23 **"Section 34109.1 Agreements with Financial Institutions.**

24 (a) The Attorney General shall enter into agreements with  
25 financial institutions doing business on Guam to coordinate the

1 development and operation of a system for matching data, using  
2 automated exchanges or data to the maximum extent feasible. As  
3 used in this Section, 'financial institution' means any banking  
4 institution or trust company, savings and loan institution, credit  
5 union, finance company, insurance company or related corporation,  
6 partnership, benefit association, foundation, safe deposit company,  
7 money market mutual fund or similar entity authorized to do  
8 business on Guam."

9 **Section 8.** Section 34109.2 is hereby *added* to Article 1, Chapter 34, Division  
10 3 of Title 5 of the Guam Code Annotated to read as follows:

11 **"Section 34109.2 Social Security Numbers Required for**  
12 **Certain License Applications.** Each licensing board, commission, or  
13 other entity which issues professional, occupational, motor vehicle,  
14 recreational, or marriage licenses or certificates shall record the Social  
15 Security number of an applicant for such license or certificate on the  
16 application and shall enter this information in its database in order to aid  
17 the Attorney General in locating parents or their assets, or in enforcing  
18 child support orders."

19 **Section 9.** Section 34119.6 is hereby *added* to Article 1, Chapter 34, Division  
20 3 of Title 5 of the Guam Code Annotated to read as follows:

21 **"Section 34119.6. Genetic Testing.** The Attorney General  
22 may order blood tests or other tests for genetic identification of the child,  
23 mother and alleged father, if such tests are not ordered pursuant to 5  
24 G.C.A. § 34119."

25 **Section 10.** Section 34133(c)(6) is hereby *added* to Article 1, Chapter 34,

1 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

2           “(c)(6)       **Order for Income Withholding by Attorney General.**

3           (A)       In addition to any other remedy provided by law for the  
4 enforcement of support, if a child support amount has been ordered,  
5 the Attorney General shall order income withholding.

6           (B)       A copy of the order for income withholding shall be  
7 transmitted to the Judicial Hearings Division of the Superior Court of  
8 Guam, and is final. The Attorney General shall enforce and collect  
9 upon the order, including arrearage.

10          (C)       The order is in full force and effect while any judicial  
11 review is pending, unless stayed by the court.

12          (D)       The Judicial Hearings Division may review an order of  
13 the Attorney General for income withholding de novo as an appeal  
14 therefrom.

15          (E)       Whenever appropriate, the Attorney General shall order  
16 the obligor or other payor to change the payee to the appropriate  
17 government entity, so long as notice is given to the obligor and  
18 obligee.”

19       **Section 11.**       Section 8166 of Article 1, Chapter 8 of Title 4 of the Guam  
20 Code Annotated is hereby *repealed and reenacted* to read as follows:

21       “**Section 8166. Right to Annuity.**       (a) It is the intention of this  
22 Chapter that rights to retirement funds, disability or survivor’s  
23 annuities or benefits, death benefits, or refund of whatever kind, not  
24 be attached by judicial proceeding, or assigned, or transferred for  
25 payment of any debt, *except* for:

1 (1) Court ordered child support and child support  
2 arrears; or

3 (2) Retirement benefits awarded by court order. Not  
4 more than fifty percent (50%) of a member's retirement benefits  
5 may be paid to a prior spouse, and only if it is court ordered.  
6 In addition, in order for a prior spouse to receive a portion of a  
7 member's retirement, the parties must have been married for a  
8 least ten (10) years during the period the member accrued  
9 retirement benefits.

10 (b) A prior spouse may receive a court ordered retirement  
11 portion only at the time funds are released to a member."

12 **Section 12.** Section 34121 of Article 1, Chapter 34, Division 3 of Title 5  
13 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

14 **"Section 34121. Vacation or Modification of Orders.** The  
15 provision of any order respecting maintenance or support may be modified  
16 only as to installments accruing subsequent to the motion for modification  
17 and only upon a showing of a substantial and material change of  
18 circumstances. Furthermore, any order directing payment of money for  
19 support or maintenance of the spouse or the minor child or children shall  
20 not be suspended, nor the execution of the order stayed, pending any  
21 appeal. The Superior Court of Guam shall have authority to modify any  
22 order, award, stipulation, or agreement as to child support, whether or not  
23 merged or integrated into a decree of divorce or separation, upon a  
24 showing of substantial and material change of circumstances. Inability to  
25 provide support, or need for increased support because of unreasonable

1 obligations voluntarily incurred, shall not constitute a showing of  
2 substantial and material change of circumstances.”

3 **Section 13.** Section 34107 of Article 1, Chapter 34, Division 3 of Title 5  
4 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

5 **“Section 34107. Judgments and Orders.** (a) Upon final  
6 hearing, judgment for the Department shall include all sums  
7 expended during the pendency of the action. When the Department  
8 recovers judgment, it may enforce, compromise or settle the  
9 judgment with the consent of the Attorney General in any way  
10 considered to be in the public interest.

11 (b) An order for child support is a final judgment as to any  
12 installment or payment of money which has accrued up to the time  
13 either party makes a motion to set aside, alter or modify the order.”

14 **Section 14.** Section 34132.2 is hereby *added* to Article 1, Chapter 34,  
15 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

16 **“Section 34132.2. Other Enforcement Remedies.**

17 (a) In cases in which there is a support arrearage, the Attorney  
18 General may order:

19 (1) intercepting or seizing periodic or lump-sum  
20 payments from:

21 (A) a government agency, including workers’  
22 compensation and other benefits; *or*

23 (B) judgments, settlements, and lotteries;

24 (2) attachments and seizure of assets of the obligor  
25 held in financial institutions;

- 1 (3) attachments of public and private retirement funds;  
2 (4) imposing liens and, in appropriate cases, forcing  
3 sales of property and distribution of proceeds; and  
4 (5) increased monthly payments for payment of  
5 arrears.

6 (b) A copy of the order shall be transmitted to the Judicial  
7 Hearings Division of the Superior Court of Guam , and is final.

8 (c) The order is in full force and effect while any judicial  
9 review is pending, unless stayed by the court.

10 (d) The Judicial Hearings Division may review an order of  
11 the Attorney General de novo as an appeal therefrom."

12 **Section 15.** Section 34106 of Article 1, Chapter 34, Division 3 of Title 5  
13 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

14 **"Section 34106. Enforcement of Support; Procedure.**

15 (a) Whenever the Department of Public Health and Social  
16 Services ('DPHSS') refers a case to the Attorney General, the DPHSS  
17 shall furnish the Attorney General with the names, ages and  
18 addresses of the persons for whom support is being sought, and in  
19 any subsequent child support action, the name, and mailing and  
20 residential addresses of the custodial parent; the name and mailing  
21 and residential addresses of the non-custodial parent; the legal basis  
22 of the duty of support; the amount of public assistance, if any,  
23 expended by the DPHSS up to that time; the needs of the family  
24 according to welfare budgetary standards; the amount due and  
25 owing under an existing court order or agreement, if any; and any

1 other pertinent information, including, but not limited to, social  
2 security numbers, driver's license numbers, telephone numbers, and  
3 addresses of parties, and their employers' names, addresses and  
4 telephone numbers.

5 (b) Parties who apply for child support services shall also  
6 supply to the Attorney General the information set forth in  
7 Subsection (a) of this § 34106.

8 (c) Parties to any paternity or child support proceeding are  
9 required to update the information set for in Subsections (a) and (b)  
10 above, as appropriate.

11 (d) All information provided to Attorney General pursuant  
12 to this Section shall be provided to the court upon request.

13 (e) After receiving the information, the Attorney General  
14 shall immediately take all steps necessary to obtain an order of  
15 support.

16 (f) The grant of aid to the applicant shall not be delayed or  
17 be contingent upon investigation by the Attorney General, *except* as  
18 provided in Subsection (d) of this Section.

19 (g) The Attorney General shall investigate complaints of the  
20 DPHSS of continued absence of a parent of a child who qualifies for  
21 assistance under the laws providing for such assistance for underage  
22 dependent children.

23 (h) The Attorney General shall prepare and file a complaint  
24 in the name of the DPHSS and prosecute such proceedings whenever  
25 an investigation shows such prosecution is warranted. The



1 proceedings shall be governed by the Rules of Civil Procedure.

2 (i) In any child support or paternity action in which the  
3 government appears, the Attorney General represents solely the  
4 interest of the government in establishing paternity and in providing  
5 child support enforcement services under Federal and Guam law.  
6 Nothing in this Section shall be construed to modify any statutory  
7 mandate, authority or confidentiality required of any government  
8 agency, nor does representation by the Attorney General create an  
9 attorney-client relationship between the attorney and any party,  
10 other than the government of Guam. The mandate of the Attorney  
11 General in child support cases is to take all steps necessary to obtain  
12 fair and equitable child support from all persons liable therefor, and  
13 to represent the interests of the government of Guam.”

14 **Section 16.** Section 34202(c) of Article 2, Chapter 34, Division 3 of  
15 Title 5 of the Guam Code Annotated is hereby *amended* to read as follows:

16 “(c) ‘*Court order of support*’ means any judgment or order for the  
17 support of dependent children, or for payments on an arrearage arising out  
18 of failure to comply with such judgment or order, issued by any court of  
19 Guam, another territory, or a state, including an order in a final decree of  
20 divorce or judgment or order issued in accordance with an administrative  
21 procedure established by state or local law that affords substantial due  
22 process and is subject to judicial or administrative review, as the case may  
23 be.”

24 **Section 17.** Section 34215 of Article 2, Chapter 34, Division 3 of Title 5  
25 of the Guam Code Annotated is hereby *amended* to read as follows:

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

13          **Section 18.**           Section 34301(g) is hereby *added* to Article 3, Chapter 34,  
14          Division 3 of Title 5 of the Guam Code Annotated to read as follows:

15                 “(g) ‘*Secretary*’ shall mean the Secretary of U.S. Department of  
16                 Health and Human Services.”

17          **Section 19.**           Section 34301(h) is hereby *added* to Article 3, Chapter 34,  
18          Division 3 of Title 5 of the Guam Code Annotated to read as follows:

19                 “(h) ‘*Director of New Hires*’ shall mean the Attorney General or that  
20                 person’s designee within the Child Support Enforcement Office of the  
21                 Department.”

22          **Section 20.**           Section 34301(i) is hereby *added* to Article 3, Chapter 34,  
23          Division 3 of Title 5 of the Guam Code Annotated to read as follows:

24                 “(i) ‘*Working day*’ or ‘*business day*’ as used in this Article 2 shall  
25                 mean a day on which the government of Guam is open for regular

1 business.”

2 **Section 21.** Section 34303(b) of Article 3, Chapter 34, Division 3 of  
3 Title 5 of the Guam Code Annotated is hereby *repealed* in its entirety.

4 **Section 22.** Section 34306 of Article 3, Chapter 34, Division 3 of Title 5  
5 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

6 **“Section 34306. Information Required to Be Reported; Multi-state**  
7 **Employers.** (a) Reports required under § 34303 of this  
8 Chapter must contain:

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

13 (2) the employer’s name, address, and Federal identification  
14 number.

15 (b) If an employer has employees who are employed in two (2) or  
16 more States, one of which is Guam, and the employer transmits reports  
17 magnetically or electronically, then it may comply with the provisions of  
18 Subsection (a) of this § 34306 by designating one State in which such  
19 employer has employees to which the employer will transmit the report  
20 described in Subsection (a) of this § 34306, and then transmitting such  
21 report to such State. Any employer that transmits reports pursuant to  
22 Subsection (b) of this § 34306 shall notify the Secretary in writing as to  
23 which State such employer designates for the purpose of sending reports.”

24 **Section 23.** Section 34307 of Article 3, Chapter 34, Division 3 of Title 5  
25 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

1           **"Section 34307. Access to and Disposition of Information.**

2           (a) The Director of New Hires shall ensure that information  
3 received from an employer pursuant to this Article 3 will be entered  
4 into the Directory of New Hires within five (5) working days of  
5 receipt. Within three (3) working days after entry into the Directory  
6 of New Hires, the Director of New Hires shall furnish the  
7 information to the National Directory of New Hires.

8           (b) Data contained in the Directory of New Hires shall be  
9 disclosed only to authorized employees of the Child Support  
10 Enforcement Office, or to other State IV-D agencies as may be  
11 requested.

12           (c) The Child Support Enforcement Office shall use the  
13 information received to locate individuals for purposes of  
14 establishing paternity and establishing, modifying, and enforcing  
15 child support obligations, and may disclose such information to any  
16 agent of the Child Support Enforcement Office under contract to  
17 carry out such purposes.

18           (d) Within two (2) working days after the date information  
19 regarding a newly hired employee is entered into the Directory of  
20 New Hires, the Department shall transfer a notice to the employer  
21 directing the employer to withhold from the income of the employee  
22 an amount equal to the monthly or other periodic child support  
23 obligation, including any payment ordered for past due support,  
24 unless the employee's income is not subject to withholding pursuant  
25 to a finding of the court or administrative body that there is good

1 cause not to require immediate income withholding, or a written  
2 agreement is reached between both parties which provides for an  
3 alternative arrangement. In any event, however, the income of a  
4 non-custodial parent shall become subject to withholding on the date  
5 the non-custodial parent's support obligation is in arrears one (1)  
6 month, or on the date the non-custodial parent requests that the  
7 withholding begin, or on the date the custodial parent requests the  
8 withholding begin and the Department determines there is no reason  
9 why the request should not be approved, or on the date the  
10 Department so elects.

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

19 (f) The Department of Labor and Workers Compensation  
20 Commission shall have access to the data received from employers  
21 pursuant to this § 34307 for purposes of administering employment  
22 security or workers compensation programs, but shall limit  
23 disclosure of such information for this authorized purpose only.

24 (g) The Division of Public Welfare of the Department of  
25 Public Health and Social Services, and any other agency

1 administering a Federal program enumerated in 42 U.S.C. § 1320b-  
2 7(b) shall have access to the information reported by employers for  
3 purposes of verifying eligibility for such program, but shall limit  
4 disclosure of such information for this authorized purpose only.”

5 **Section 24.** Section 34309 is hereby *added* to Article 3, Chapter 34,  
6 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

7 **“Section 34309. Comparison of Information; Notice of Match.**

8 (a) As soon as practicable after the enactment of this Section,  
9 the Department shall, either directly or by contract, conduct  
10 automated comparisons of the social security numbers reported by  
11 employers pursuant to this Article 2 and the social security numbers  
12 appearing in the records of Guam’s case registry.

13 (b) When an information comparison conducted pursuant to  
14 Subsection (a) of § 34309 reveals a match with respect to the social  
15 security number of an individual required to provide support under  
16 a support order, the Department shall take immediate steps to update  
17 its case registry with the information in the Directory of New Hires.”

18 **Section 25.** Section 34212 of Article 2, Chapter 34, Division 3 of Title 5  
19 of the Guam Code Annotated is hereby *amended* to read as follows:

20 **“Section 34212. Exchange of Information.** Notwithstanding §  
21 34109, within six (6) months of the effective date of this Act, all licensing  
22 bodies shall provide, and update quarterly, the Department with  
23 information, concerning applicants for licensure and current license  
24 holders, on magnetic tape or other machine readable form, if available.  
25 Such information shall include the license holder or applicant’s name,

1 address of record, Federal employer identification number or social  
2 security number, type of license, effective date of license or renewal,  
3 expiration date of license, and active or inactive status.”

4 **Section 26.** Section 34218 is hereby *added* to Article 1, Chapter 34,  
5 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

6 **“Section 34218. Failure to Comply with Warrants and Subpoenas.**

7 The failure of a non-custodial parent to comply with any warrant or  
8 subpoena issued relating to paternity or to any other child support  
9 proceeding shall also result in the suspension, non-issuance, or non-  
10 renewal of a non-custodial parent’s license in the same manner and using  
11 the same procedure as indicated in this Article for non-compliance with an  
12 order of child support, and any subsequent re-issuance, renewal or other  
13 extension of a license denied or suspended pursuant to this Section shall  
14 also conform to the procedure indicated in this Article for subsequent re-  
15 issuance, renewal or other extension.”

16 **Section 27.** Section 34128 of Article 1, Chapter 34, Division 3 of Title 5  
17 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

18 **“Section 34128. Health Care Insurance Mandatory.**

19 (a) Whenever the Superior Court of Guam issues or modifies  
20 an order concerning child support, including provisions for child  
21 support in divorce decrees, the court shall include health care  
22 insurance coverage for the child or children as part of both parents’  
23 obligation of support if health care insurance is available at a  
24 reasonable cost. The court shall determine the burden of obligation  
25 of support for health insurance from either or from both parents in

1 the best interest of the child or children.

2 (b) When an obligor is ordered to provide health insurance  
3 for a minor child, the child is eligible for health care coverage as a  
4 dependent of the obligor until the child's eighteenth (18<sup>th</sup>) birthday or  
5 until further order of the court, and without regard to open  
6 enrollment restrictions.

7 (c) If health care coverage through an employment-related  
8 group health care plan is available through the obligor's employer,  
9 the Child Support Enforcement Office shall send a National Medical  
10 Support Notice ('NMSN') to the employer to transfer notice of the  
11 court-ordered provision for health care coverage; except that the  
12 NMSN need not be used if a court or administrative order provides  
13 for alternative coverage other than an employer-related health care  
14 plan. *If* a current order for medical support is no longer in effect,  
15 then the Child Support Enforcement Office shall promptly notify the  
16 employer. The form of NMSN was printed as an appendix to 65 Fed.  
17 Reg. 82154 (2000) (a portion of which was codified as 45 C.F.R. §  
18 303.32 without appendix).

19 (d) In addition to the provisions of this § 34128 or the  
20 provisions of § 34307 in this Title, within two (2) working days after  
21 the date information regarding a newly hired employee is entered  
22 into the Directory of New Hires, the Child Support Enforcement  
23 Office shall transfer the NMSN to the employer of an obligor  
24 whenever the child receives:

25 (A) temporary assistance for needy families or foster



1 care or medicaid assistance; *or*

2 (B) services which are provided upon application of a  
3 custodial parent to the Department.

4 (e) An employer who has received an NMSN must transfer it  
5 to the plan administrator of the appropriate group health plan within  
6 twenty (20) business days of the date of the NMSN. *If* an employer  
7 who has received an NMSN fails to transfer the NMSN to the plan  
8 administrator of the appropriate group health plan within the twenty  
9 (20) business-day period, then in a proceeding to enforce the transfer,  
10 the court may impose a fine on the employer of up to Two Hundred  
11 Dollars (\$200.00) per calendar day that the employer has failed to  
12 transfer the NMSN to the plan administrator to be paid to the  
13 General Fund, *except* that if the employer is found to have willfully  
14 refused to comply with transferring the NMSN, then the court may  
15 assess up to Five Hundred Dollars (\$500.00) per calendar day. A  
16 business day as used in this Subsection (e) shall mean a day on which  
17 the government of Guam is open for business.

18 (f) An employer must withhold from the obligor's  
19 compensation the obligor's share, if any, of premiums for health care  
20 coverage and pay amounts withheld directly to the health insurance  
21 provider; except that, if the amount required to be withheld for  
22 health care coverage, either alone or when added to the total of any  
23 withholding required by a child support order, exceeds fifty percent  
24 (50%) of the obligor's disposable income, then the employer shall  
25 withhold fifty percent (50%) of the obligor's disposable income, and

1 shall apply the amount withheld first to the obligor's share of  
2 premiums for health care coverage.

3 (g) The obligor may contest the withholding for health care  
4 coverage at any time, but only on the basis of mistake of fact. To  
5 contest, the obligor must file a written request for a hearing with the  
6 Child Support Enforcement Office, which shall put the matter on for  
7 hearing, and the court shall determine whether the withholding for  
8 health care coverage is improper due to a mistake of fact. Regardless  
9 of any contest filed or which is pending, the employer shall initiate  
10 withholding or continue withholding for health care coverage. The  
11 Child Support Enforcement Office shall notify the employer of the  
12 court's determination only *if* the withholding is affected in any  
13 manner.

14 (h) So long as an obligor is employed, the employer of the  
15 obligor may *not* dis-enroll or eliminate coverage for any of the  
16 obligor's children covered, unless the employer has eliminated family  
17 health coverage for all of its employees, or unless the employer is  
18 notified in writing by the Child Support Enforcement Office either  
19 that the order for health coverage is no longer in effect, or that the  
20 child is or will be enrolled in comparable coverage which will take  
21 effect no later than the effective date of dis-enrollment.

22 (i) An employer must notify promptly the Child Support  
23 Enforcement Office whenever the non-custodial parent's  
24 employment is terminated, along with the non-custodial parent's last  
25 known address and the name and address of the non-custodial

1 parent's new employer, if known.

2 (j) Whenever a custodial or non-custodial parent incurs  
3 uninsured but necessary health care costs of their children, the parent  
4 incurring the costs may present receipts to the court and the court  
5 may decide upon a reimbursement plan and enter an order for  
6 payment by one parent to the other. The reimbursement plan shall  
7 be in proportion to each parent's respective percentages of income  
8 according to child support guidelines.

9 (k) If the obligor's employer has more than one (1) option for  
10 health care coverage available, the Child Support Enforcement Office  
11 must promptly select one (1) of the options after consulting with the  
12 custodial parent."

13 **Section 28.** Section 34138(d) of Article 1, Chapter 34, Division 3 of  
14 Title 5 of the Guam Code Annotated is hereby *repealed and reenacted* to read as  
15 follows:

16 "(d) Nothing in this Chapter shall be construed to limit the use of  
17 any other civil or criminal remedies to enforce child, spousal or medical  
18 support obligations."

19 **Section 29.** Section 34102(6) is hereby *added* to Article 1, Chapter 34,  
20 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

21 "(6) '*Attorney General*' means the Attorney General of Guam or that  
22 person's designee within the Department of Law, Family Division."

23 **Section 30.** Section 35104 is hereby *added* to Article 1, Chapter 35,  
24 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

25 **"Section 35104. High-Volume Automated Administrative**

1       **Enforcement.**     The Guam child support enforcement agency shall use  
2 high-volume automated administrative enforcement to the same extent as  
3 used in intrastate cases, in response to a request made by another State to  
4 enforce support orders, and shall promptly report the results of such  
5 enforcement procedure to the requesting State. As used for interstate cases  
6 of child support enforcement, the term 'high-volume automated  
7 administrative enforcement' shall mean the use of automatic data  
8 processing to search through databases to determine whether information  
9 is available regarding a parent owing a child support obligation."

10       **Section 31.**       Section 34154 is hereby *added* to Article 1, Chapter 34,  
11 Division 3 of Title 5 of the Guam Code Annotated to read as follows:

12               **"Section 34154. Fraudulent Transfers; Voiding of Fraudulent**  
13 **Transfers.** (a) A transfer or encumbrance of property, real or  
14 personal, which is incurred by a non-custodial parent owing arrears  
15 is fraudulent as to the arrears owed, regardless of whether the  
16 arrearage arises before or after the transfer or encumbrance, if the  
17 transfer or encumbrance is made with actual intent to hinder, delay,  
18 or defraud the person to whom the arrearage is owed, and shall be  
19 void as against the person to whom the arrearage is owed. Actual  
20 intent shall be determined as provided in 10 G.C.A. § 6103.

21               (b) Whenever the Department is aware of a fraudulent  
22 transfer or encumbrance, the Department shall seek to void such  
23 transfer or encumbrance to the extent necessary to satisfy the  
24 arrearage, or obtain a settlement in the best interests of the person to  
25 whom the arrearage is owed."

# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 9/4/02

## VOTING SHEET

Bill No. 214(LS)

Resolution No. \_\_\_\_\_

Question: w/o engrossment

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

15   0   0   0   0

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence

9  
9/4/02

MINA BENTE SAIS NA LIHESLATURAN GUAHAN  
2001 (FIRST) Regular Session

**Bill No. 214 (LS)**

Substituted by the Committee  
on Power, Public Safety & the Judiciary

Introduced by:

Chairman, Committee on Rules,  
General Governmental  
Operations, Reorganization and  
Reform and Federal, Foreign  
and General Affairs

by request of *I Maga'lahaen  
Guahan*, in accordance with  
the Organic Act of Guam.

Mark Forbes

J. F. Ada

AN ACT TO REPEAL, REENACT, ADD AND AMEND  
SECTIONS OF TITLE 4 AND 5 OF THE GUAM CODE  
ANNOTATED RELATIVE TO THE DUTY OF  
GOVERNMENTAL AGENCIES AND PRIVATE  
ENTITIES TO PROVIDE INFORMATION FOR  
CHILD SUPPORT PURPOSES, AND TO PROVIDE  
SAFEGUARDS FOR UNAUTHORIZED DISCLOSURE  
THEREFORE; TO ENSURE DUE PROCESS IN  
ADMINISTRATIVE ACTIONS; TO PROVIDE FOR  
COURT ORDERED JOB SEARCH FOR  
UNEMPLOYED OR UNDEREMPLOYED ABSENT  
PARENTS; TO AUTHORIZE AGREEMENTS WITH  
FINANCIAL INSTITUTIONS; TO REQUIRE SOCIAL  
SECURITY NUMBERS ON PROFESSIONAL OR  
OCCUPATIONAL LICENSE OR CERTIFICATE  
APPLICATIONS; TO PROVIDE FOR VARIOUS  
EXPEDITED ADMINISTRATIVE PROCEDURES; TO

PROVIDE FOR ADDITIONAL GUIDELINES FOR THE DIRECTORY OF NEW HIRES; AND TO PROVIDE FOR THE NATIONAL MEDICAL SUPPORT NOTICE, ALL RELATIVE TO BRINGING GUAM'S CHILD SUPPORT ENFORCEMENT PROGRAM INTO FEDERAL COMPLIANCE

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

2           **Section 1. Legislative Findings.** The Child Support Enforcement Office  
3 within the Department of Law administers Guam's child support enforcement  
4 program pursuant to a State Plan and applicable federal laws. Oversight is  
5 provided by the Region IX Administrator for Children and Families under the  
6 United States Department of Health and Human Services. Guam's program has  
7 been behind in its federal compliance responsibilities for lack of an appropriate  
8 legal framework within which to operate the local program brought about by  
9 new federal laws with which Guam must comply. The Child Support  
10 Enforcement Office must bring Guam's program into compliance immediately  
11 with its State Plan obligations in the areas of collection and use of social security  
12 numbers for child support enforcement purposes; work requirements for persons  
13 owing past due child support; financial institution data matches; expedited  
14 administrative and judicial procedures; privacy safeguards; and Guam's  
15 Directory of New Hires. The Legislature finds that certain additions and  
16 revisions to Guam's child support laws are necessary so that Guam's child  
17 support enforcement program meets the latest federal requirements. It is the  
18 intent of this Legislature to enable the Child Support Enforcement Office to  
19 administer its program to the utmost of its abilities in accordance with federal

1 guidelines, and in the best interest of children who are in need of support.

2 **Section 2.** A new Subsection (b) is added to §34103.1 of Title 5, Guam  
3 Code Annotated to read:

4 “(b) Any administrative action against an obligor to secure assets to  
5 satisfy child support arrearage and current support obligation, including  
6 but not limited to, intercepting or seizing periodic payments, or attaching  
7 and seizing assets of the obligor’s property as provided by law, shall in all  
8 cases provide for:

9 (1) Written notice to the obligor and to the custodial parent  
10 of the action to be taken and the legal basis for that action;

11 (2) The opportunity for the obligor to contest the action and  
12 to request a hearing on the matter; and

13 (3) The opportunity for the obligor to appeal on the record.

14 **Section 3.** A new Subsection (c) is added to §34103.1 of Title 5, Guam Code  
15 Annotated to read:

16 “(c) Any hearing or appeal resulting from the administrative action  
17 shall be to the Judicial Hearings Division of the Superior Court”

18 **Section 4.** Paragraph 1 of Subsection (a) of §34105 of Title 5, Guam Code  
19 Annotated is amended to read:

20 “(a) The Legislature has determined there is public policy in favor  
21 of establishing paternity, of having parents support their children, and in  
22 having fair and equitable support orders. Therefore, whether or not the  
23 minor children have been or are recipients of public assistance, the  
24 Department acting in the best interests of the children and the island of  
25 Guam, may bring an action in its own name or join in an action already in



1 existence against the person or persons responsible for the support of such  
2 children:

3 (1) To recover such amounts of back support and any other  
4 amounts as may be due and owing under an existing court order,  
5 whether owed to the Department or to the custodial parent or other  
6 person having custody of the minor child;

7 (2) For a continuing order of support for the benefit of such  
8 children;

9 (3) To establish paternity;

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

12 (5) To obtain orders of wage assignment;

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

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

21 (8) To recover reimbursement of the cost of support for the  
22 child before the commencement of the action, determined by using  
23 the appropriate Child Support Guidelines currently in effect, except  
24 as limited by (b) of this Section; and

25 (9) To obtain orders requiring the obligor owing back

1           support to pay in accordance with a plan approved by the court or  
2           child support enforcement agency, and to seek court ordered job  
3           searches as necessary for unemployed or underemployed absent  
4           parents; provided, that if an obligor is under an approved payment  
5           plan but not working and not incapacitated, the obligor shall be  
6           ordered to participate in a job search.”

7           **Section 5.** Sections 34109 of Title 5, Guam Code Annotated is repealed and  
8 reenacted to read:

9           **“§34109. Authority of Attorney General to Request Information;**  
10          **Compliance with Request.** (a) The Attorney General and any other state’s  
11 IV-D agency may request the following information to carry out the  
12 provisions of this Chapter, and such information shall be provided upon  
13 request:

14           (1) The records of the following public officers and local agencies:

15                   (A) the Office of Vital Statistics of the Department of Public  
16 Health and Social Services;

17                   (B) the Division of Public Welfare of the Department of  
18 Public Health and Social Services;

19                   (C) the Motor Vehicle Division of the Department of Revenue  
20 and Taxation;

21                   (D) any tax or business licensing branches or divisions of the  
22 Department of Revenue and Taxation with regard to the following,  
23 but not limited thereby: income, revenue, assets, and other financial  
24 information; residential addresses of individuals; identity of  
25 employers; and ownership and control of corporations, partnerships

- 1           and other business entities;
- 2           (E) the Records Division of the Department of Land Management;
- 3           (F) all boards, commissions and agencies which issue occupational
- 4 or professional licenses, certificates or permits;
- 5           (G) the Department of Labor;
- 6           (H) the Department of Integrated Services for Individuals with
- 7 Disabilities;
- 8           (I) the Guam Housing and Urban Renewal Authority;
- 9           (J) the Department of Corrections;
- 10          (K) any law enforcement agencies or any other agencies which
- 11 maintain records of criminal history; and
- 12          (L) any other agencies administering any public assistance
- 13 program.

14           (2) The records of any public utilities, internet and long

15 distance services or carriers, and community antenna or cable

16 television companies with regard to their customers's names,

17 addresses, and employer's names and addresses; and

18           (3) Information in the possession of financial institutions

19 relating to the assets and liabilities of their customers. Financial

20 institutions shall not be liable for such disclosure. As used in this

21 section, 'financial institution' is defined in 5 GCA §34109.1.

22           (4) Information in the possession of any public or private

23 employer or other entity, including but not limited to for-profit and

24 non-profit entities, relating to the employment, compensation and

25 benefits of any individuals employed by such entity as an employee

1 or as an independent contractor.

2 (b) 'If a person or other entity fails to supply the  
3 information requested pursuant to Subsection (a) of this  
4 §34109, the Attorney General may issue a subpoena to compel  
5 the person or entity to provide that information. The Attorney  
6 General and any other state's IV-D agency may request any  
7 information necessary to carry out the provisions of this  
8 Chapter or the provisions of such state's child support  
9 enforcement program in accordance with applicable federal or  
10 state law. Any person or entity that fails to comply with a  
11 request made pursuant to §34109 is subject to a civil penalty of  
12 not more than Five Hundred Dollars (\$500.00) for each failure  
13 to comply' ".  
14

15 **Section 6.** Section 34110 of Title 5, Guam Code Annotated is repealed and  
reenacted to read:

16 **"§34110. Unauthorized Disclosure of Information; Civil**  
17 **Damages.** (a) A disclosure made in good faith pursuant to §34109  
18 shall not give rise to any action for damages for the disclosure; except  
19 that with regard to financial records from financial institutions, such  
20 information may be disclosed only for the purpose of establishing,  
21 modifying or enforcing a child support obligation. 'Financial record'  
22 as used in '§34109 and 34110 shall have the same meaning as defined  
23 in §1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401),  
24 as may be amended.

25 (b) The individual whose financial records were disclosed

1 may bring a civil action in the District Court of Guam pursuant to 42  
2 U.S.C. 669a. Any public officer or employee who knowingly or  
3 negligently discloses a financial record for purposes other than as  
4 authorized is liable for (1) the costs and attorneys's fees of the action,  
5 and (2) damages in an amount equal to the greater of (i) the sum of  
6 \$1,000 for each act of unauthorized disclosure, or (ii) the sum of the  
7 actual damages sustained by reason of the unauthorized disclosure  
8 plus punitive damages if the disclosure is willful or is a result of  
9 gross negligence; except that no liability shall be found where there  
10 is a good faith disclosure of a financial record, but erroneous  
11 interpretation of Subsection (a) of this §34110 with regard to  
12 financial records.

13 (c) The provisions of §34310 are in addition to any other  
14 remedies available".

15 **Section 7.** Subsection (a) of §34109.1 of Title 5, Guam Code Annotated is  
16 amended to read:

17 **"§34109.1 Agreements with Financial Institutions.** (a) The  
18 Attorney General shall enter into agreements with financial  
19 institutions doing business on Guam to coordinate the development  
20 and operation of a system for matching data, using automated  
21 exchanges or data to the maximum extent feasible. As used in this  
22 section, 'financial institution' means any banking institution or trust  
23 company, savings and loan institution, credit union, finance  
24 company, insurance company or related corporation, partnership,  
25 benefit association, foundation, safe deposit company, money market

1 mutual fund or similar entity authorized to do business on Guam”.

2 **Section 8.** A new §34109.2 is added to Title 5, Guam Code Annotated to  
3 read:

4 “§34109.2 **Social Security Numbers Required for Certain License**  
5 **Applications.** Each licensing board, commission, or other entity which  
6 issues professional, occupational, motor vehicle, recreational, or marriage  
7 licenses or certificates shall record the Social Security number of an  
8 applicant for such license or certificate on the application and shall enter  
9 this information in its data base in order to aid the Attorney General in  
10 locating parents or their assets, or in enforcing child support orders.”

11 **Section 9.** A new §34119.6 is added to Title 5, Guam Code Annotated to  
12 read:

13 “§34119.6. **Genetic Testing.** The Attorney General may order  
14 blood tests or other tests for genetic identification of the child, mother and  
15 alleged father, if such tests are not ordered pursuant to 5 GCA §34119”.

16 **Section 10.** A new Subsection (c) (6) is added to §34133 of Title 5, Guam  
17 Code Annotated to read:

18 (c) (6) **Order for Income Withholding by Attorney General.** (A)  
19 In addition to any other remedy provided by law for the enforcement  
20 of support, if a child support amount has been ordered, the Attorney  
21 General shall order income withholding.

22 (B) A copy of the order for income withholding shall be  
23 transmitted to the Judicial Hearings Division of the Superior Court,  
24 and is final. The Attorney General shall enforce and collect upon the  
25 order, including arrearage.

1 (C) The order is in full force and effect while any judicial  
2 review is pending, unless stayed by the court.

3 (D) The Judicial Hearings Division may review an order of  
4 the Attorney General for income withholding de novo as an appeal  
5 therefrom.

6 (E) Whenever appropriate, the Attorney General shall order  
7 the obligor or other payor to change the payee to the appropriate  
8 government entity, so long as notice is given to the obligor and  
9 obligee".

10 **Section 11.** Section §8166 of Title 4, Guam Code Annotated is repealed and  
11 reenacted to read:

12 "§8166. **Right to Annuity.** (a) It is the intention of this  
13 Chapter that rights to retirement funds, disability or survivor's  
14 annuities or benefits, death benefits, or refund of whatever kind, not  
15 be attached by judicial proceeding, or assigned, or transferred for  
16 payment of any debt, except for:

17 (1) Court ordered child support and child support  
18 arrears; or

19 (2) Retirement benefits awarded by court order. Not  
20 more than fifty percent (50%) of a member's retirement benefits  
21 may be paid to a prior spouse, and only if it is court ordered.  
22 In addition, in order for a prior spouse to receive a portion of a  
23 member's retirement, the parties must have been married for a  
24 least ten (10) years during the period the member accrued  
25 retirement benefits.

1 (b) A prior spouse may receive a court ordered retirement  
2 portion only at the time funds are released to a member”.

3 **Section 12.** Section 34121 of Title 5, Guam Code Annotated is repealed  
4 and reenacted to read:

5 “§34121. **Vacation or Modification of Orders.** The provision of  
6 any order respecting maintenance or support may be modified only as to  
7 installments accruing subsequent to the motion for modification and only  
8 upon a showing of a substantial and material change of circumstances.  
9 Furthermore, any order directing payment of money for support or  
10 maintenance of the spouse or the minor child or children shall not be  
11 suspended, nor the execution of the order stayed, pending any appeal. The  
12 Superior Court of Guam shall have authority to modify any order, award,  
13 stipulation, or agreement as to child support, whether or not merged or  
14 integrated into a decree of divorce or separation, upon a showing of  
15 substantial and material change of circumstances. Inability to provide  
16 support, or need for increased support because of unreasonable obligations  
17 voluntarily incurred, shall not constitute a showing of substantial and  
18 material change of circumstances”.

19 **Section 13.** Section 34107 of Title 5, Guam Code Annotated is repealed  
20 and reenacted to read:

21 “§34107. **Judgments and Orders.** (a) Upon final hearing,  
22 judgment for the Department shall include all sums expended during  
23 the pendency of the action. When the Department recovers judgment,  
24 it may enforce, compromise or settle the judgment with the consent  
25 of the Attorney General in any way considered to be in the public



1 interest.

2 (b) An order for child support is a final judgment as to any  
3 installment or payment of money which has accrued up to the time  
4 either party makes a motion to set aside, alter or modify the order.”

5 **Section 14.** A new §34132.2 is added to Title 5, Guam Code Annotated to  
6 read:

7 “§34132.2. **Other Enforcement Remedies.** (a) In cases in which there  
8 is a support arrearage, the Attorney General may order:

9 (1) intercepting or seizing periodic or lump-sum  
10 payments from:

11 (A) a government agency, including workers’  
12 compensation and other benefits; or

13 (B) judgments, settlements, and lotteries.

14 (2) attachments and seizure of assets of the obligor  
15 held in financial institutions;

16 (3) attachments of public and private retirement funds;

17 (4) imposing liens and, in appropriate cases, forcing  
18 sales of property and distribution of proceeds; and

19 (5) increased monthly payments for payment of  
20 arrears.

21 (b) A copy of the order shall be transmitted to the Judicial  
22 Hearings Division of the Superior Court, and is final.

23 (c) The order is in full force and effect while any judicial  
24 review is pending, unless stayed by the court.

25 (d) The Judicial Hearings Division may review an order of

1 the Attorney General de novo as an appeal therefrom”.

2 **Section 15.** Section 34106 of Title 5, Guam Code Annotated is repealed  
3 and reenacted to read:

4 **“§34106. Enforcement of Support; Procedure.** (a) Whenever  
5 the Department of Public Health and Social Services (DPHSS) refers a  
6 case to the Attorney General, the DPHSS shall furnish the Attorney  
7 General with the names, ages and addresses of the persons for whom  
8 support is being sought, and in any subsequent child support action,  
9 the name, and mailing and residential addresses of the custodial  
10 parent; the name and mailing and residential addresses of the non-  
11 custodial parent; the legal basis of the duty of support; the amount of  
12 public assistance, if any, expended by the DPHSS up to that time; the  
13 needs of the family according to welfare budgetary standards; the  
14 amount due and owing under an existing court order or agreement, if  
15 any; and any other pertinent information, including, but not limited  
16 to, social security numbers, driver’s license numbers, telephone  
17 numbers, and addresses of parties, and their employers’ names,  
18 addresses and telephone numbers.

19 (b) Parties who apply for child support services shall also  
20 supply to the Attorney General the information set forth in  
21 Subsection (a) of this §34106.

22 (c) Parties to any paternity or child support proceeding are  
23 required to update the information set for in Subsections (a) and (b)  
24 above, as appropriate.

25 (d) All information provided to Attorney General pursuant

1 to this section shall be provided to the court upon request.

2 (e) After receiving the information, the Attorney General  
3 shall immediately take all steps necessary to obtain an order of  
4 support.

5 (f) The grant of aid to the applicant shall not be delayed or  
6 be contingent upon investigation by the Attorney General, except as  
7 provided in Subsection (d) of this section.

8 (g) The Attorney General shall investigate complaints of the  
9 DPHSS of continued absence of a parent of a child who qualifies for  
10 assistance under the laws providing for such assistance for underage  
11 dependent children.

12 (h) The Attorney General shall prepare and file a complaint  
13 in the name of the DPHSS and prosecute such proceedings whenever  
14 an investigation shows such prosecution is warranted. The  
15 proceedings shall be governed by the Rules of Civil Procedure.

16 (i) In any child support or paternity action in which the  
17 government appears, the Attorney General represents solely the  
18 interest of the government in establishing paternity and in providing  
19 child support enforcement services under Federal and Guam law.  
20 Nothing in this section shall be construed to modify any statutory  
21 mandate, authority or confidentiality required of any government  
22 agency, nor does representation by the Attorney General create an  
23 attorney-client relationship between the attorney and any party,  
24 other than the government of Guam. The mandate of the Attorney  
25 General in child support cases is to take all steps necessary to obtain

1 fair and equitable child support from all persons liable therefor, and  
2 to represent the interests of the government of Guam”.

3 **Section 16.** Subsection (c) of §34202 of Title 5, Guam Code Annotated is  
4 amended to read:

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

13 **Section 17.** Section 34215 of Title 5, Guam Code Annotated is amended to  
14 read:

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

1 consistent with the public interest”.

2 **Section 18.** A new Subsection (g) is added to §34301 of Title 5, Guam  
3 Code Annotated to read:

4 (g) ‘Secretary’ shall mean the Secretary of U.S. Department of  
5 Health and Human Services”.

6 **Section 19.** A new Subsection (h) is added to §34301 of Title 5, Guam Code  
7 Annotated to read:

8 “(h) Director of New Hires’ shall mean the Attorney General or his  
9 designee within the Child Support Enforcement Office of the Department”.

10 **Section 20.** A new Subsection (i) is added to §34301 of Title 5, Guam  
11 Code Annotated to read:

12 “(i) ‘Working day’ or ‘business day’ as used in this Article 2 shall  
13 mean a day on which the government of Guam is open for regular  
14 business”.

15 **Section 21.** Subsection (b) of §34303 of Title 5, Guam Code Annotated is  
16 repealed in its entirety.

17 **Section 22.** Section 34306 of Title 5, Guam Code Annotated is repealed  
18 and reenacted to read:

19 “§34306. **Information Required to Be Reported; Multi-state**  
20 **Employers.** (a) Reports required under §34303 of this Chapter must  
21 contain:

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

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

3                   (b) If an employer has employees who are employed in two or  
4                   more states, one of which is Guam, and the employer transmits reports  
5                   magnetically or electronically, then it may comply with the provisions of  
6                   Subsection (a) of this §34306 by designating one state in which such  
7                   employer has employees to which the employer will transmit the report  
8                   described in Subsection (a) of this §34306, and then transmitting such  
9                   report to such state. Any employer that transmits reports pursuant to  
10                  Subsection (b) of this §34306 shall notify the Secretary in writing as to  
11                  which state such employer designates for the purpose of sending reports".

12                  **Section 23.** Section 34307 of Title 5, Guam Code Annotated is repealed  
13                  and reenacted to read:

14                  **§34307. Access to and Disposition of Information.** (a) The  
15                  Director of New Hires shall ensure that information received from an  
16                  employer pursuant to this Article 3 will be entered into the Directory  
17                  of New Hires within five (5) working days of receipt. Within three  
18                  (3) working days after entry into the Directory of New Hires, the  
19                  Director of New Hires shall furnish the information to the National  
20                  Directory of New Hires.

21                  (b) Data contained in the Directory of New Hires shall be  
22                  disclosed only to authorized employees of the Child Support  
23                  Enforcement Office, or to other state IV-D agencies as may be  
24                  requested.

25                  (c) The Child Support Enforcement Office shall use the

1 information received to locate individuals for purposes of  
2 establishing paternity and establishing, modifying, and enforcing  
3 child support obligations, and may disclose such information to any  
4 agent of the Child Support Enforcement Office under contract to  
5 carry out such purposes.

6 (d) Within two (2) working days after the date information  
7 regarding a newly hired employee is entered into the Directory of  
8 New Hires, the Department shall transfer a notice to the employer  
9 directing the employer to withhold from the income of the employee  
10 an amount equal to the monthly or other periodic child support  
11 obligation, including any payment ordered for past due support,  
12 unless the employee's income is not subject to withholding pursuant  
13 to a finding of the court or administrative body that there is good  
14 cause not to require immediate income withholding, or a written  
15 agreement is reached between both parties which provides for an  
16 alternative arrangement. In any event, however, the income of a  
17 non-custodial parent shall become subject to withholding on the date  
18 the non-custodial parent's support obligation is in arrears one month,  
19 or on the date the non-custodial parent requests that the withholding  
20 begin, or on the date the custodial parent requests the withholding  
21 begin and the Department determines there is no request why the  
22 request should not be approved, or on the date the Department so  
23 elects.

24 (e) The Department of Revenue and Taxation shall furnish  
25 quarterly to the Director of New Hires, who shall in turn furnish to

1 the National Directory of New Hires, extracts of the reports required  
2 under Federal law to be made to the United States Secretary of Labor  
3 concerning the wages and compensation paid to individuals, by such  
4 dates, in such format, and containing such information as the United  
5 States Secretary of Health and Human Services shall specify in  
6 regulation.

7 (f) The Department of Labor and Workers Compensation  
8 Commission shall have access to the data received from employers  
9 pursuant to this §34307 for purposes of administering employment  
10 security or workers compensation programs, but shall limit  
11 disclosure of such information for this authorized purpose only.

12 (g) The Division Public Welfare of the Department of Public  
13 Health and Social Services, and any other agency administering a  
14 federal program enumerated in 42 U.S.C. §1320b-7(b) shall have  
15 access to the information reported by employers for purposes of  
16 verifying eligibility for such program, but shall limit disclosure of  
17 such information for this authorized purpose only”.

18 **Section 24.** A new §34309 is added to Title 5, Guam Code Annotated to read:

19 **“§34309. Comparison of Information; Notice of Match. (a)**  
20 As soon as practicable after the enactment of this section, the  
21 Department shall, either directly or by contract, conduct automated  
22 comparisons of the social security numbers reported by employers  
23 pursuant to this Article 2 and the social security numbers appearing  
24 in the records of Guam’s case registry.

25 (b) When an information comparison conducted pursuant to



1 Subsection (a) of §34309 reveals a match with respect to the social  
2 security number of an individual required to provide support under  
3 a support order, the Department shall take immediate steps to update  
4 its case registry with the information in the Directory of New Hires”.

5 **Section 25.** Section 34212 of Title 5, Guam Code Annotated is amended to  
6 read:

7 “§34212. **Exchange of Information.** Notwithstanding §34109,  
8 within six (6) months of the effective date of this Act, all licensing bodies  
9 shall provide, and update quarterly, the Department with information,  
10 concerning applicants for licensure and current license holders, on  
11 magnetic tape or other machine readable form, if available. Such  
12 information shall include the license holder or applicant’s name, address of  
13 record, Federal employer identification number or social security number,  
14 type of license, effective date of license or renewal, expiration date of  
15 license, and active or inactive status”.

16 **Section 26.** A new §34218 is added to Title 5, Guam Code Annotated to  
17 read:

18 **Section 34218. Failure to Comply with Warrants and Subpoenas.**  
19 The failure of a non-custodial parent to comply with any warrant or  
20 subpoena issued relating to paternity or to any other child support  
21 proceeding shall also result in the suspension, non-issuance, or non-  
22 renewal of a non-custodial parent’s license in the same manner and using  
23 the same procedure as indicated in this Article for non-compliance with an  
24 order of child support, and any subsequent re-issuance, renewal or other  
25 extension of a license denied or suspended pursuant to this section shall

1 also conform to the procedure indicated in this Article for subsequent re-  
2 issuance, renewal or other extension”.

3 **Section 27** Section 34128 of Title 5, Guam Code Annotated is repealed and  
4 reenacted to read:

5 “§34128. **Health Care Insurance Mandatory.** (a) Whenever the  
6 Superior Court of Guam issues or modifies an order concerning child  
7 support, including provisions for child support in a divorce decrees,  
8 the court shall include health care insurance coverage for the child or  
9 children as part of both parents’ obligation of support if health care  
10 insurance is available at a reasonable cost. The court shall determine  
11 the burden of obligation of support for health insurance from either  
12 or from both parents in the best interest of the child or children.

13 (b) When an obligor is ordered to provide health insurance  
14 for a minor child, the child is eligible for health care coverage as a  
15 dependent of the obligor until the child’s eighteenth (18) birthday or  
16 until further order of the court, and without regard to open  
17 enrollment restrictions.

18 (c) If health care coverage through an employment-related  
19 group health care plan is available through the obligor’s employer,  
20 the Child Support Enforcement Office shall send a National Medical  
21 Support Notice (NMSN) to the employer to transfer notice of the  
22 court-ordered provision for health care coverage; except that the  
23 NMSN need not be used if a court or administrative order provides  
24 for alternative coverage other than an employer-related health care  
25 plan. If a current order for medical support is no longer in effect,

1 then the Child Support Enforcement Office shall promptly notify the  
2 employer. The form of NMSN was printed as an appendix to 65 Fed.  
3 Reg. 82154 (2000) (a portion of which was codified as 45 C.F.R.  
4 §303.32 without appendix).

5 (d) In addition to the provisions of this §34128 or the  
6 provisions of §34307 in this Title, within two (2) working days after  
7 the date information regarding a newly hired employee is entered  
8 into the Directory of New Hires, the Child Support Enforcement  
9 Office shall transfer the NMSN to the employer of an obligor  
10 whenever the child receives:

11 (A) temporary assistance for needy families or foster  
12 care or medicaid assistance; or

13 (B) services which are provided upon application of a  
14 custodial parent to the Department.

15 (e) An employer who has received an NMSN must transfer it  
16 to the plan administrator of the appropriate group health plan within  
17 twenty (20) business days of the date of the NMSN. If an employer  
18 who has received an NMSN fails to transfer the NMSN to the plan  
19 administrator of the appropriate group health plan within the twenty  
20 business-day period, then in a proceeding to enforce the transfer, the  
21 court may impose a fine on the employer of up to Two Hundred  
22 Dollars (\$200) per calendar day that the employer has failed to  
23 transfer the NMSN to the plan administrator to be paid to the  
24 General Fund, except that if the employer is found to have willfully  
25 refused to comply with transferring the NMSN, then the court may

1 assess up to Five Hundred Dollars (\$500) per calendar day. A  
2 business day as used in this subsection (e) shall mean a day on which  
3 the government of Guam is open for business.

4 (f) An employer must withhold from the obligor's  
5 compensation the obligor's share, if any, of premiums for health care  
6 coverage and pay amounts withheld directly to the health insurance  
7 provider; except that, if the amount required to be withheld for  
8 health care coverage, either alone or when added to the total of any  
9 withholding required by a child support order, exceeds fifty percent  
10 of the obligor's disposable income, then the employer shall withhold  
11 fifty percent (50%) of the obligor's disposable income, and shall apply  
12 the amount withheld first to the obligor's share of premiums for  
13 health care coverage.

14 (g) The obligor may contest the withholding for health care  
15 coverage at any time, but only on the basis of mistake of fact. To  
16 contest, the obligor must file a written request for a hearing with the  
17 Child Support Enforcement Office, which shall put the matter on for  
18 hearing, and the court shall determine whether the withholding for  
19 health care coverage is improper due to a mistake of fact. Regardless  
20 of any contest filed or which is pending, the employer shall initiate  
21 withholding or continue withholding for health care coverage. The  
22 Child Support Enforcement Office shall notify the employer of the  
23 court's determination only if the withholding is affected in any  
24 manner.

25 (h) So long as an obligor is employed, the employer of the

1 obligor may not disenroll or eliminate coverage for any of the  
2 obligor's children covered, unless the employer has eliminated family  
3 health coverage for all of its employees, or unless the employer is  
4 notified in writing by the Child Support Enforcement Office either  
5 that the order for health coverage is no longer in effect, or that the  
6 child is or will be enrolled in comparable coverage which will take  
7 effect no later than the effective date of disenrollment.

8 (i) An employer must notify promptly the Child Support  
9 Enforcement Office whenever the non-custodial parent's  
10 employment is terminated, along with the non-custodial parent's last  
11 known address and the name and address of the non-custodial  
12 parent's new employer, if known.

13 (j) Whenever a custodial or non-custodial parent incurs  
14 uninsured but necessary health care costs of their children, the parent  
15 incurring the costs may present receipts to the court and the court  
16 may decide upon a reimbursement plan and enter an order for  
17 payment by one parent to the other. The reimbursement plan shall  
18 be in proportion to each parent's respective percentages of income  
19 according to child support guidelines.

20 (k) If the obligor's employer has more than one option for  
21 health care coverage available, the Child Support Enforcement Office  
22 must promptly select one of the options after consulting with the  
23 custodial parent".

24 **Section 28.** Subsection (d) of §34138 of Title 5, Guam Code Annotated is  
25 repealed and reenacted to read:

1           “(d) Nothing in this Chapter shall be construed to limit the use of  
2 any other civil or criminal remedies to enforce child, spousal or medical  
3 support obligations”.

4           **Section 29.** A new subsection (6) is added to §34102 of Title 5, Guam Code  
5 Annotated to read:

6           “(6) Attorney General means the Attorney General of Guam or his  
7 designee within the Department of Law, Family Division”.

8           **Section 30.** A new §35104 is added to Title 5, Guam Code Annotated to  
9 read:

10           **“§35104. High-Volume Automated Administrative Enforcement.**  
11 The Guam child support enforcement agency shall use high-volume  
12 automated administrative enforcement to the same extent as used in  
13 intrastate cases, in response to a request made by another state to enforce  
14 support orders, and shall promptly report the results of such enforcement  
15 procedure to the requesting state. As used for interstate cases of child  
16 support enforcement, the term ‘high-volume automated administrative  
17 enforcement’ shall mean the use of automatic data processing to search  
18 through data bases to determine whether information is available  
19 regarding a parent owing a child support obligation”.

20           **Section 31.** A new §34154 is added to Title 5, Guam Code Annotated to  
21 read:

22           **“§34154. Fraudulent Transfers; Voiding of Fraudulent**  
23 **Transfers.** (a) A transfer or encumbrance of property, real or  
24 personal, which is incurred by a non-custodial parent owing arrears  
25 is fraudulent as to the arrears owed, regardless of whether the

1 arrearage arises before or after the transfer or encumbrance, if the  
2 transfer or encumbrance is made with actual intent to hinder, delay,  
3 or defraud the person to whom the arrearage is owed, and shall be  
4 void as against the person to whom the arrearage is owed. Actual  
5 intent shall be determined as provided in 10 GCA §6103.

6 (b) Whenever the Department is aware of a fraudulent  
7 transfer or encumbrance, the Department shall seek to void such  
8 transfer or encumbrance to the extent necessary to satisfy the  
9 arrearage, or obtain a settlement in the best interests of the person to  
10 whom the arrearage is owed”.

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9/3/02

MINA BENTE SAIS NA LIHESLATURAN GUAHAN  
2001 (FIRST) Regular Session

**Bill No. 214 (LS)**

Substituted by the Committee  
on Power, Public Safety & the Judiciary

Introduced by:

Chairman, Committee on Rules,  
General Governmental  
Operations, Reorganization and  
Reform and Federal, Foreign  
and General Affairs

by request of *I Maga'lahaen*  
*Guahan*, in accordance with  
the Organic Act of Guam.

Mark Forbes

J. F. Ada

AN ACT TO REPEAL, REENACT, ADD AND AMEND SECTIONS OF TITLE 4 AND 5 OF THE GUAM CODE ANNOTATED RELATIVE TO THE DUTY OF GOVERNMENTAL AGENCIES AND PRIVATE ENTITIES TO PROVIDE INFORMATION FOR CHILD SUPPORT PURPOSES, AND TO PROVIDE SAFEGUARDS FOR UNAUTHORIZED DISCLOSURE THEREFORE; TO ENSURE DUE PROCESS IN ADMINISTRATIVE ACTIONS; TO PROVIDE FOR COURT ORDERED JOB SEARCH FOR UNEMPLOYED OR UNDEREMPLOYED ABSENT PARENTS; TO AUTHORIZE AGREEMENTS WITH FINANCIAL INSTITUTIONS; TO REQUIRE SOCIAL SECURITY NUMBERS ON PROFESSIONAL OR OCCUPATIONAL LICENSE OR CERTIFICATE APPLICATIONS; TO PROVIDE FOR VARIOUS EXPEDITED ADMINISTRATIVE PROCEDURES; TO



PROVIDE FOR ADDITIONAL GUIDELINES FOR  
THE DIRECTORY OF NEW HIRES; AND TO  
PROVIDE FOR THE NATIONAL MEDICAL  
SUPPORT NOTICE, ALL RELATIVE TO BRINGING  
GUAM'S CHILD SUPPORT ENFORCEMENT  
PROGRAM INTO FEDERAL COMPLIANCE

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

2           **Section 1. Legislative Findings.** The Child Support Enforcement Office  
3 within the Department of Law administers Guam's child support enforcement  
4 program pursuant to a State Plan and applicable federal laws. Oversight is  
5 provided by the Region IX Administrator for Children and Families under the  
6 United States Department of Health and Human Services. Guam's program has  
7 been behind in its federal compliance responsibilities for lack of an appropriate  
8 legal framework within which to operate the local program brought about by  
9 new federal laws with which Guam must comply. The Child Support  
10 Enforcement Office must bring Guam's program into compliance immediately  
11 with its State Plan obligations in the areas of collection and use of social security  
12 numbers for child support enforcement purposes; work requirements for persons  
13 owing past due child support; financial institution data matches; expedited  
14 administrative and judicial procedures; privacy safeguards; and Guam's  
15 Directory of New Hires. The Legislature finds that certain additions and  
16 revisions to Guam's child support laws are necessary so that Guam's child  
17 support enforcement program meets the latest federal requirements. It is the  
18 intent of this Legislature to enable the Child Support Enforcement Office to  
19 administer its program to the utmost of its abilities in accordance with federal

1 guidelines, and in the best interest of children who are in need of support.

2 **Section 2.** A new Subsection (b) is added to §34103.1 of Title 5, Guam  
3 Code Annotated to read:

4 “(b) Any administrative action against an obligor to secure assets to  
5 satisfy child support arrearage and current support obligation, including  
6 but not limited to, intercepting or seizing periodic payments, or attaching  
7 and seizing assets of the obligor’s property as provided by law, shall in all  
8 cases provide for:

9 (1) Written notice to the obligor and to the custodial parent  
10 of the action to be taken and the legal basis for that action;

11 (2) The opportunity for the obligor to contest the action and  
12 to request a hearing on the matter; and

13 (3) The opportunity for the obligor to appeal on the record.

14 **Section 3.** A new Subsection (c) is added to §34103.1 of Title 5, Guam Code  
15 Annotated to read:

16 “(c) Any hearing or appeal resulting from the administrative action  
17 shall be to the Judicial Hearings Division of the Superior Court”

18 **Section 4.** Paragraph 1 of Subsection (a) of §34105 of Title 5, Guam Code  
19 Annotated is amended to read:

20 “(a) The Legislature has determined there is public policy in favor  
21 of establishing paternity, of having parents support their children, and in  
22 having fair and equitable support orders. Therefore, whether or not the  
23 minor children have been or are recipients of public assistance, the  
24 Department acting in the best interests of the children and the island of  
25 Guam, may bring an action in its own name or join in an action already in

1 existence against the person or persons responsible for the support of such  
2 children:

3 (1) To recover such amounts of back support and any other  
4 amounts as may be due and owing under an existing court order,  
5 whether owed to the Department or to the custodial parent or other  
6 person having custody of the minor child;

7 (2) For a continuing order of support for the benefit of such  
8 children;

9 (3) To establish paternity;

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

12 (5) To obtain orders of wage assignment;

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

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

21 (8) To recover reimbursement of the cost of support for the  
22 child before the commencement of the action, determined by using  
23 the appropriate Child Support Guidelines currently in effect, except  
24 as limited by (b) of this Section; and

25 (9) To obtain orders requiring the obligor owing back

1           support to pay in accordance with a plan approved by the court or  
2           child support enforcement agency, and to seek court ordered job  
3           searches as necessary for unemployed or underemployed absent  
4           parents; provided, that if an obligor is under an approved payment  
5           plan but not working and not incapacitated, the obligor shall be  
6           ordered to participate in a job search.”

7           Section 5. Sections 34109 of Title 5, Guam Code Annotated is repealed and  
8 reenacted to read:

9           **“§34109. Authority of Attorney General to Request Information;**  
10          **Compliance with Request.** (a) The Attorney General and any other state’s  
11 IV-D agency may request the following information to carry out the  
12 provisions of this Chapter, and such information shall be provided upon  
13 request:

14           (1) The records of the following public officers and local agencies:

15                   (A) the Office of Vital Statistics of the Department of Public  
16 Health and Social Services;

17                   (B) the Division of Public Welfare of the Department of  
18 Public Health and Social Services;

19                   (C) the Motor Vehicle Division of the Department of Revenue  
20 and Taxation;

21                   (D) any tax or business licensing branches or divisions of the  
22 Department of Revenue and Taxation with regard to the following,  
23 but not limited thereby: income, revenue, assets, and other financial  
24 information; residential addresses of individuals; identity of  
25 employers; and ownership and control of corporations, partnerships

- 1           and other business entities;
- 2           (E) the Records Division of the Department of Land Management;
- 3           (F) all boards, commissions and agencies which issue occupational
- 4 or professional licenses, certificates or permits;
- 5           (G) the Department of Labor;
- 6           (H) the Department of Integrated Services for Individuals with
- 7 Disabilities;
- 8           (I) the Guam Housing and Urban Renewal Authority;
- 9           (J) the Department of Corrections;
- 10          (K) any law enforcement agencies or any other agencies which
- 11 maintain records of criminal history; and
- 12          (L) any other agencies administering any public assistance
- 13 program.

14           (2) The records of any public utilities, internet and long

15 distance services or carriers, and community antenna or cable

16 television companies with regard to their customers's names,

17 addresses, and employer's names and addresses; and

18           (3) Information in the possession of financial institutions

19 relating to the assets and liabilities of their customers. Financial

20 institutions shall not be liable for such disclosure. As used in this

21 section, 'financial institution' is defined in 5 GCA §34109.1.

22           (4) Information in the possession of any public or private

23 employer or other entity, including but not limited to for-profit and

24 non-profit entities, relating to the employment, compensation and

25 benefits of any individuals employed by such entity as an employee

1 or as an independent contractor.

2 (b) 'If a person or other entity fails to supply the  
3 information requested pursuant to Subsection (a) of this  
4 §34109, the Attorney General may issue a subpoena to compel  
5 the person or entity to provide that information. The Attorney  
6 General and any other state's IV-D agency may request any  
7 information necessary to carry out the provisions of this  
8 Chapter or the provisions of such state's child support  
9 enforcement program in accordance with applicable federal or  
10 state law. Any person or entity that fails to comply with a  
11 request made pursuant to §34109 is subject to a civil penalty of  
12 not more than Five Hundred Dollars (\$500.00) for each failure  
13 to comply' ''.

14 **Section 6.** Section 34110 of Title 5, Guam Code Annotated is repealed and  
15 reenacted to read:

16 **"§34110. Unauthorized Disclosure of Information; Civil**  
17 **Damages.** (a) A disclosure made in good faith pursuant to §34109  
18 shall not give rise to any action for damages for the disclosure; except  
19 that with regard to financial records from financial institutions, such  
20 information may be disclosed only for the purpose of establishing,  
21 modifying or enforcing a child support obligation. 'Financial record'  
22 as used in '§34109 and 34110 shall have the same meaning as defined  
23 in §1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401),  
24 as may be amended.

25 (b) The individual whose financial records were disclosed

1 may bring a civil action in the District Court of Guam pursuant to 42  
2 U.S.C. 669a. Any public officer or employee who knowingly or  
3 negligently discloses a financial record for purposes other than as  
4 authorized is liable for (1) the costs and attorneys's fees of the action,  
5 and (2) damages in an amount equal to the greater of (i) the sum of  
6 \$1,000 for each act of unauthorized disclosure, or (ii) the sum of the  
7 actual damages sustained by reason of the unauthorized disclosure  
8 plus punitive damages if the disclosure is willful or is a result of  
9 gross negligence; except that no liability shall be found where there  
10 is a good faith disclosure of a financial record, but erroneous  
11 interpretation of Subsection (a) of this §34110 with regard to  
12 financial records.

13 (c) The provisions of §34310 are in addition to any other  
14 remedies available".

15 **Section 7.** Subsection (a) of §34109.1 of Title 5, Guam Code Annotated is  
16 amended to read:

17 **"§34109.1 Agreements with Financial Institutions.** (a) The  
18 Attorney General shall enter into agreements with financial  
19 institutions doing business on Guam to coordinate the development  
20 and operation of a system for matching data, using automated  
21 exchanges or data to the maximum extent feasible. As used in this  
22 section, 'financial institution' means any banking institution or trust  
23 company, savings and loan institution, credit union, finance  
24 company, insurance company or related corporation, partnership,  
25 benefit association, foundation, safe deposit company, money market

1 mutual fund or similar entity authorized to do business on Guam”.

2 **Section 8.** A new §34109.2 is added to Title 5, Guam Code Annotated to  
3 read:

4 “§34109.2 **Social Security Numbers Required for Certain License**  
5 **Applications.** Each licensing board, commission, or other entity which  
6 issues professional, occupational, motor vehicle, recreational, or marriage  
7 licenses or certificates shall record the Social Security number of an  
8 applicant for such license or certificate on the application and shall enter  
9 this information in its data base in order to aid the Attorney General in  
10 locating parents or their assets, or in enforcing child support orders.”

11 **Section 9.** A new §34119.6 is added to Title 5, Guam Code Annotated to  
12 read:

13 “§34119.6. **Genetic Testing.** The Attorney General may order  
14 blood tests or other tests for genetic identification of the child, mother and  
15 alleged father, if such tests are not ordered pursuant to 5 GCA §34119”.

16 **Section 10.** A new Subsection (c) (6) is added to §34133 of Title 5, Guam  
17 Code Annotated to read:

18 (c) (6) **Order for Income Withholding by Attorney General.** (A)  
19 In addition to any other remedy provided by law for the enforcement  
20 of support, if a child support amount has been ordered, the Attorney  
21 General shall order income withholding.

22 (B) A copy of the order for income withholding shall be  
23 transmitted to the Judicial Hearings Division of the Superior Court,  
24 and is final. The Attorney General shall enforce and collect upon the  
25 order, including arrearage.



1 (C) The order is in full force and effect while any judicial  
2 review is pending, unless stayed by the court.

3 (D) The Judicial Hearings Division may review an order of  
4 the Attorney General for income withholding de novo as an appeal  
5 therefrom.

6 (E) Whenever appropriate, the Attorney General shall order  
7 the obligor or other payor to change the payee to the appropriate  
8 government entity, so long as notice is given to the obligor and  
9 obligee".

10 **Section 11.** Section §8166 of Title 4, Guam Code Annotated is repealed and  
11 reenacted to read:

12 "§8166. **Right to Annuity.** (a) It is the intention of this  
13 Chapter that rights to retirement funds, disability or survivor's  
14 annuities or benefits, death benefits, or refund of whatever kind, not  
15 be attached by judicial proceeding, or assigned, or transferred for  
16 payment of any debt, except for:

17 (1) Court ordered child support and child support  
18 arrears; or

19 (2) Retirement benefits awarded by court order. Not  
20 more than fifty percent (50%) of a member's retirement benefits  
21 may be paid to a prior spouse, and only if it is court ordered.  
22 In addition, in order for a prior spouse to receive a portion of a  
23 member's retirement, the parties must have been married for a  
24 least ten (10) years during the period the member accrued  
25 retirement benefits.

1 (b) A prior spouse may receive a court ordered retirement  
2 portion only at the time funds are released to a member”.

3 **Section 12.** Section 34121 of Title 5, Guam Code Annotated is repealed  
4 and reenacted to read:

5 “§34121. **Vacation or Modification of Orders.** The provision of  
6 any order respecting maintenance or support may be modified only as to  
7 installments accruing subsequent to the motion for modification and only  
8 upon a showing of a substantial and material change of circumstances.  
9 Furthermore, any order directing payment of money for support or  
10 maintenance of the spouse or the minor child or children shall not be  
11 suspended, nor the execution of the order stayed, pending any appeal. The  
12 Superior Court of Guam shall have authority to modify any order, award,  
13 stipulation, or agreement as to child support, whether or not merged or  
14 integrated into a decree of divorce or separation, upon a showing of  
15 substantial and material change of circumstances. Inability to provide  
16 support, or need for increased support because of unreasonable obligations  
17 voluntarily incurred, shall not constitute a showing of substantial and  
18 material change of circumstances”.

19 **Section 13.** Section 34107 of Title 5, Guam Code Annotated is repealed  
20 and reenacted to read:

21 “§34107. **Judgments and Orders.** (a) Upon final hearing,  
22 judgment for the Department shall include all sums expended during  
23 the pendency of the action. When the Department recovers judgment,  
24 it may enforce, compromise or settle the judgment with the consent  
25 of the Attorney General in any way considered to be in the public

1 interest.

2 (b) An order for child support is a final judgment as to any  
3 installment or payment of money which has accrued up to the time  
4 either party makes a motion to set aside, alter or modify the order.”

5 **Section 14.** A new §34132.2 is added to Title 5, Guam Code Annotated to  
6 read:

7 “§34132.2. **Other Enforcement Remedies.** (a) In cases in which there  
8 is a support arrearage, the Attorney General may order:

9 (1) intercepting or seizing periodic or lump-sum  
10 payments from:

11 (A) a government agency, including workers’  
12 compensation and other benefits; or

13 (B) judgments, settlements, and lotteries.

14 (2) attachments and seizure of assets of the obligor  
15 held in financial institutions;

16 (3) attachments of public and private retirement funds;

17 (4) imposing liens and, in appropriate cases, forcing  
18 sales of property and distribution of proceeds; and

19 (5) increased monthly payments for payment of  
20 arrears.

21 (b) A copy of the order shall be transmitted to the Judicial  
22 Hearings Division of the Superior Court, and is final.

23 (c) The order is in full force and effect while any judicial  
24 review is pending, unless stayed by the court.

25 (d) The Judicial Hearings Division may review an order of

1 the Attorney General de novo as an appeal therefrom”.

2 **Section 15.** Section 34106 of Title 5, Guam Code Annotated is repealed  
3 and reenacted to read:

4 **“§34106. Enforcement of Support; Procedure.** (a) Whenever  
5 the Department of Public Health and Social Services (DPHSS) refers a  
6 case to the Attorney General, the DPHSS shall furnish the Attorney  
7 General with the names, ages and addresses of the persons for whom  
8 support is being sought, and in any subsequent child support action,  
9 the name, and mailing and residential addresses of the custodial  
10 parent; the name and mailing and residential addresses of the non-  
11 custodial parent; the legal basis of the duty of support; the amount of  
12 public assistance, if any, expended by the DPHSS up to that time; the  
13 needs of the family according to welfare budgetary standards; the  
14 amount due and owing under an existing court order or agreement, if  
15 any; and any other pertinent information, including, but not limited  
16 to, social security numbers, driver’s license numbers, telephone  
17 numbers, and addresses of parties, and their employers’ names,  
18 addresses and telephone numbers.

19 (b) Parties who apply for child support services shall also  
20 supply to the Attorney General the information set forth in  
21 Subsection (a) of this §34106.

22 (c) Parties to any paternity or child support proceeding are  
23 required to update the information set for in Subsections (a) and (b)  
24 above, as appropriate.

25 (d) All information provided to Attorney General pursuant

1 to this section shall be provided to the court upon request.

2 (e) After receiving the information, the Attorney General  
3 shall immediately take all steps necessary to obtain an order of  
4 support.

5 (f) The grant of aid to the applicant shall not be delayed or  
6 be contingent upon investigation by the Attorney General, except as  
7 provided in Subsection (d) of this section.

8 (g) The Attorney General shall investigate complaints of the  
9 DPHSS of continued absence of a parent of a child who qualifies for  
10 assistance under the laws providing for such assistance for underage  
11 dependent children.

12 (h) The Attorney General shall prepare and file a complaint  
13 in the name of the DPHSS and prosecute such proceedings whenever  
14 an investigation shows such prosecution is warranted. The  
15 proceedings shall be governed by the Rules of Civil Procedure.

16 (i) In any child support or paternity action in which the  
17 government appears, the Attorney General represents solely the  
18 interest of the government in establishing paternity and in providing  
19 child support enforcement services under Federal and Guam law.  
20 Nothing in this section shall be construed to modify any statutory  
21 mandate, authority or confidentiality required of any government  
22 agency, nor does representation by the Attorney General create an  
23 attorney-client relationship between the attorney and any party,  
24 other than the government of Guam. The mandate of the Attorney  
25 General in child support cases is to take all steps necessary to obtain

1 fair and equitable child support from all persons liable therefor, and  
2 to represent the interests of the government of Guam”.

3 **Section 16.** Subsection (c) of §34202 of Title 5, Guam Code Annotated is  
4 amended to read:

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

13 **Section 17.** Section 34215 of Title 5, Guam Code Annotated is amended to  
14 read:

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

1 consistent with the public interest".

2 **Section 18.** A new Subsection (g) is added to §34301 of Title 5, Guam  
3 Code Annotated to read:

4 (g) 'Secretary' shall mean the Secretary of U.S. Department of  
5 Health and Human Services".

6 **Section 19.** A new Subsection (h) is added to §34301 of Title 5, Guam Code  
7 Annotated to read:

8 "(h) Director of New Hires' shall mean the Attorney General or his  
9 designee within the Child Support Enforcement Office of the Department".

10 **Section 20.** A new Subsection (i) is added to §34301 of Title 5, Guam  
11 Code Annotated to read:

12 "(i) 'Working day' or 'business day' as used in this Article 2 shall  
13 mean a day on which the government of Guam is open for regular  
14 business".

15 **Section 21.** Subsection (b) of §34303 of Title 5, Guam Code Annotated is  
16 repealed in its entirety.

17 **Section 22.** Section 34306 of Title 5, Guam Code Annotated is repealed  
18 and reenacted to read:

19 "**§34306. Information Required to Be Reported; Multi-state**  
20 **Employers.** (a) Reports required under §34303 of this Chapter must  
21 contain:

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

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

3                   (b) If an employer has employees who are employed in two or  
4                   more states, one of which is Guam, and the employer transmits reports  
5                   magnetically or electronically, then it may comply with the provisions of  
6                   Subsection (a) of this §34306 by designating one state in which such  
7                   employer has employees to which the employer will transmit the report  
8                   described in Subsection (a) of this §34306, and then transmitting such  
9                   report to such state. Any employer that transmits reports pursuant to  
10                  Subsection (b) of this §34306 shall notify the Secretary in writing as to  
11                  which state such employer designates for the purpose of sending reports".

12                  **Section 23.** Section 34307 of Title 5, Guam Code Annotated is repealed  
13                  and reenacted to read:

14                  **§34307. Access to and Disposition of Information.** (a) The  
15                  Director of New Hires shall ensure that information received from an  
16                  employer pursuant to this Article 3 will be entered into the Directory  
17                  of New Hires within five (5) working days of receipt. Within three  
18                  (3) working days after entry into the Directory of New Hires, the  
19                  Director of New Hires shall furnish the information to the National  
20                  Directory of New Hires.

21                  (b) Data contained in the Directory of New Hires shall be  
22                  disclosed only to authorized employees of the Child Support  
23                  Enforcement Office, or to other state IV-D agencies as may be  
24                  requested.

25                  (c) The Child Support Enforcement Office shall use the



1 information received to locate individuals for purposes of  
2 establishing paternity and establishing, modifying, and enforcing  
3 child support obligations, and may disclose such information to any  
4 agent of the Child Support Enforcement Office under contract to  
5 carry out such purposes.

6 (d) Within two (2) working days after the date information  
7 regarding a newly hired employee is entered into the Directory of  
8 New Hires, the Department shall transfer a notice to the employer  
9 directing the employer to withhold from the income of the employee  
10 an amount equal to the monthly or other periodic child support  
11 obligation, including any payment ordered for past due support,  
12 unless the employee's income is not subject to withholding pursuant  
13 to a finding of the court or administrative body that there is good  
14 cause not to require immediate income withholding, or a written  
15 agreement is reached between both parties which provides for an  
16 alternative arrangement. In any event, however, the income of a  
17 non-custodial parent shall become subject to withholding on the date  
18 the non-custodial parent's support obligation is in arrears one month,  
19 or on the date the non-custodial parent requests that the withholding  
20 begin, or on the date the custodial parent requests the withholding  
21 begin and the Department determines there is no request why the  
22 request should not be approved, or on the date the Department so  
23 elects.

24 (e) The Department of Revenue and Taxation shall furnish  
25 quarterly to the Director of New Hires, who shall in turn furnish to

1 the National Directory of New Hires, extracts of the reports required  
2 under Federal law to be made to the United States Secretary of Labor  
3 concerning the wages and compensation paid to individuals, by such  
4 dates, in such format, and containing such information as the United  
5 States Secretary of Health and Human Services shall specify in  
6 regulation.

7 (f) The Department of Labor and Workers Compensation  
8 Commission shall have access to the data received from employers  
9 pursuant to this §34307 for purposes of administering employment  
10 security or workers compensation programs, but shall limit  
11 disclosure of such information for this authorized purpose only.

12 (g) The Division Public Welfare of the Department of Public  
13 Health and Social Services, and any other agency administering a  
14 federal program enumerated in 42 U.S.C. §1320b-7(b) shall have  
15 access to the information reported by employers for purposes of  
16 verifying eligibility for such program, but shall limit disclosure of  
17 such information for this authorized purpose only”.

18 **Section 24.** A new §34309 is added to Title 5, Guam Code Annotated to read:

19 **“§34309. Comparison of Information; Notice of Match. (a)**  
20 As soon as practicable after the enactment of this section, the  
21 Department shall, either directly or by contract, conduct automated  
22 comparisons of the social security numbers reported by employers  
23 pursuant to this Article 2 and the social security numbers appearing  
24 in the records of Guam’s case registry.

25 (b) When an information comparison conducted pursuant to

1 Subsection (a) of §34309 reveals a match with respect to the social  
2 security number of an individual required to provide support under  
3 a support order, the Department shall take immediate steps to update  
4 its case registry with the information in the Directory of New Hires”.

5 **Section 25.** Section 34212 of Title 5, Guam Code Annotated is amended to  
6 read:

7 “§34212. **Exchange of Information.** Notwithstanding §34109,  
8 within six (6) months of the effective date of this Act, all licensing bodies  
9 shall provide, and update quarterly, the Department with information,  
10 concerning applicants for licensure and current license holders, on  
11 magnetic tape or other machine readable form, if available. Such  
12 information shall include the license holder or applicant’s name, address of  
13 record, Federal employer identification number or social security number,  
14 type of license, effective date of license or renewal, expiration date of  
15 license, and active or inactive status”.

16 **Section 26.** A new §34218 is added to Title 5, Guam Code Annotated to  
17 read:

18 **Section 34218. Failure to Comply with Warrants and Subpoenas.**  
19 The failure of a non-custodial parent to comply with any warrant or  
20 subpoena issued relating to paternity or to any other child support  
21 proceeding shall also result in the suspension, non-issuance, or non-  
22 renewal of a non-custodial parent’s license in the same manner and using  
23 the same procedure as indicated in this Article for non-compliance with an  
24 order of child support, and any subsequent re-issuance, renewal or other  
25 extension of a license denied or suspended pursuant to this section shall

1 also conform to the procedure indicated in this Article for subsequent re-  
2 issuance, renewal or other extension”.

3 **Section 27** Section 34128 of Title 5, Guam Code Annotated is repealed and  
4 reenacted to read:

5 “§34128. **Health Care Insurance Mandatory.** (a) Whenever the  
6 Superior Court of Guam issues or modifies an order concerning child  
7 support, including provisions for child support in a divorce decrees,  
8 the court shall include health care insurance coverage for the child or  
9 children as part of both parents’ obligation of support if health care  
10 insurance is available at a reasonable cost. The court shall determine  
11 the burden of obligation of support for health insurance from either  
12 or from both parents in the best interest of the child or children.

13 (b) When an obligor is ordered to provide health insurance  
14 for a minor child, the child is eligible for health care coverage as a  
15 dependent of the obligor until the child’s eighteenth (18) birthday or  
16 until further order of the court, and without regard to open  
17 enrollment restrictions.

18 (c) If health care coverage through an employment-related  
19 group health care plan is available through the obligor’s employer,  
20 the Child Support Enforcement Office shall send a National Medical  
21 Support Notice (NMSN) to the employer to transfer notice of the  
22 court-ordered provision for health care coverage; except that the  
23 NMSN need not be used if a court or administrative order provides  
24 for alternative coverage other than an employer-related health care  
25 plan. If a current order for medical support is no longer in effect,

1 then the Child Support Enforcement Office shall promptly notify the  
2 employer. The form of NMSN was printed as an appendix to 65 Fed.  
3 Reg. 82154 (2000) (a portion of which was codified as 45 C.F.R.  
4 §303.32 without appendix).

5 (d) In addition to the provisions of this §34128 or the  
6 provisions of §34307 in this Title, within two (2) working days after  
7 the date information regarding a newly hired employee is entered  
8 into the Directory of New Hires, the Child Support Enforcement  
9 Office shall transfer the NMSN to the employer of an obligor  
10 whenever the child receives:

11 (A) temporary assistance for needy families or foster  
12 care or medicaid assistance; or

13 (B) services which are provided upon application of a  
14 custodial parent to the Department.

15 (e) An employer who has received an NMSN must transfer it  
16 to the plan administrator of the appropriate group health plan within  
17 twenty (20) business days of the date of the NMSN. If an employer  
18 who has received an NMSN fails to transfer the NMSN to the plan  
19 administrator of the appropriate group health plan within the twenty  
20 business-day period, then in a proceeding to enforce the transfer, the  
21 court may impose a fine on the employer of up to Two Hundred  
22 Dollars (\$200) per calendar day that the employer has failed to  
23 transfer the NMSN to the plan administrator to be paid to the  
24 General Fund, except that if the employer is found to have willfully  
25 refused to comply with transferring the NMSN, then the court may

1 assess up to Five Hundred Dollars (\$500) per calendar day. A  
2 business day as used in this subsection (e) shall mean a day on which  
3 the government of Guam is open for business.

4 (f) An employer must withhold from the obligor's  
5 compensation the obligor's share, if any, of premiums for health care  
6 coverage and pay amounts withheld directly to the health insurance  
7 provider; except that, if the amount required to be withheld for  
8 health care coverage, either alone or when added to the total of any  
9 withholding required by a child support order, exceeds fifty percent  
10 of the obligor's disposable income, then the employer shall withhold  
11 fifty percent (50%) of the obligor's disposable income, and shall apply  
12 the amount withheld first to the obligor's share of premiums for  
13 health care coverage.

14 (g) The obligor may contest the withholding for health care  
15 coverage at any time, but only on the basis of mistake of fact. To  
16 contest, the obligor must file a written request for a hearing with the  
17 Child Support Enforcement Office, which shall put the matter on for  
18 hearing, and the court shall determine whether the withholding for  
19 health care coverage is improper due to a mistake of fact. Regardless  
20 of any contest filed or which is pending, the employer shall initiate  
21 withholding or continue withholding for health care coverage. The  
22 Child Support Enforcement Office shall notify the employer of the  
23 court's determination only if the withholding is affected in any  
24 manner.

25 (h) So long as an obligor is employed, the employer of the

1 obligor may not disenroll or eliminate coverage for any of the  
2 obligor's children covered, unless the employer has eliminated family  
3 health coverage for all of its employees, or unless the employer is  
4 notified in writing by the Child Support Enforcement Office either  
5 that the order for health coverage is no longer in effect, or that the  
6 child is or will be enrolled in comparable coverage which will take  
7 effect no later than the effective date of disenrollment.

8 (i) An employer must notify promptly the Child Support  
9 Enforcement Office whenever the non-custodial parent's  
10 employment is terminated, along with the non-custodial parent's last  
11 known address and the name and address of the non-custodial  
12 parent's new employer, if known.

13 (j) Whenever a custodial or non-custodial parent incurs  
14 uninsured but necessary health care costs of their children, the parent  
15 incurring the costs may present receipts to the court and the court  
16 may decide upon a reimbursement plan and enter an order for  
17 payment by one parent to the other. The reimbursement plan shall  
18 be in proportion to each parent's respective percentages of income  
19 according to child support guidelines.

20 (k) If the obligor's employer has more than one option for  
21 health care coverage available, the Child Support Enforcement Office  
22 must promptly select one of the options after consulting with the  
23 custodial parent''.

24 **Section 28.** Subsection (d) of §34138 of Title 5, Guam Code Annotated is  
25 repealed and reenacted to read:

1           “(d) Nothing in this Chapter shall be construed to limit the use of  
2 any other civil or criminal remedies to enforce child, spousal or medical  
3 support obligations”.

4           **Section 29.** A new subsection (6) is added to §34102 of Title 5, Guam Code  
5 Annotated to read:

6           “(6) Attorney General means the Attorney General of Guam or his  
7 designee within the Department of Law, Family Division”.

8           **Section 30.** A new §35104 is added to Title 5, Guam Code Annotated to  
9 read:

10           **“§35104. High-Volume Automated Administrative Enforcement.**  
11 The Guam child support enforcement agency shall use high-volume  
12 automated administrative enforcement to the same extent as used in  
13 intrastate cases, in response to a request made by another state to enforce  
14 support orders, and shall promptly report the results of such enforcement  
15 procedure to the requesting state. As used for interstate cases of child  
16 support enforcement, the term ‘high-volume automated administrative  
17 enforcement’ shall mean the use of automatic data processing to search  
18 through data bases to determine whether information is available  
19 regarding a parent owing a child support obligation”.

20           **Section 31.** A new §34154 is added to Title 5, Guam Code Annotated to  
21 read:

22           **“§34154. Fraudulent Transfers; Voiding of Fraudulent**  
23 **Transfers.** (a) A transfer or encumbrance of property, real or  
24 personal, which is incurred by a non-custodial parent owing arrears  
25 is fraudulent as to the arrears owed, regardless of whether the



1 arrearage arises before or after the transfer or encumbrance, if the  
2 transfer or encumbrance is made with actual intent to hinder, delay,  
3 or defraud the person to whom the arrearage is owed, and shall be  
4 void as against the person to whom the arrearage is owed. Actual  
5 intent shall be determined as provided in 10 GCA §6103.

6 (b) Whenever the Department is aware of a fraudulent  
7 transfer or encumbrance, the Department shall seek to void such  
8 transfer or encumbrance to the extent necessary to satisfy the  
9 arrearage, or obtain a settlement in the best interests of the person to  
10 whom the arrearage is owed".



Chairman:  
**Committee on Power,  
Public Safety and  
the Judiciary**

Suite 5A • Sinajana Shopping Mall II  
777 Route 4 • Sinajana, Guam 96926

Phone 1.671 472-3431  
Fax 1.671 472-3433

22 August 2002

The Honorable Antonio R. Unpingco  
Speaker  
I Mina' Bente Sais Na Liheslaturan Guahan  
155 Hesler Street  
Hagatna, Guam 96910

Dear Mr. Speaker:


The Committee on Power, Public Safety and Judiciary, to which was referred **Bill No. 214 (COR)**, "AN ACT TO REPEAL, REENACT, ADD AND AMEND SECTIONS OF TITLE 4 AND 5 OF THE GUAM CODE ANNOTATED RELATIVE TO THE DUTY OF GOVERNMENTAL AGENCIES AND PRIVATE ENTITIES TO PROVIDE INFORMATION FOR CHILD SUPPORT PURPOSES, AND TO PROVIDE SAFEGUARDS FOR UNAUTHORIZED DISCLOSURE THEREFORE; TO ENSURE DUE PROCESS IN ADMINISTRATIVE ACTIONS; TO PROVIDE FOR COURT ORDERED JOB SEARCH FOR UNEMPLOYED OR UNDEREMPLOYED ABSENT PARENTS; TO AUTHORIZE AGREEMENTS WITH FINANCIAL INSTITUTIONS; TO REQUIRE SOCIAL SECURITY NUMBERS ON PROFESSIONAL OR OCCUPATIONAL LICENSE OR CERTIFICATE APPLICATIONS; TO PROVIDE FOR VARIOUS EXPEDITED ADMINISTRATIVE PROCEDURES; TO PROVIDE FOR ADDITIONAL GUIDELINES FOR THE DIRECTORY OF NEW HIRES; AND TO PROVIDE FOR THE NATIONAL MEDICAL SUPPORT NOTICE, ALL RELATIVE TO BRINGING GUAM'S CHILD SUPPORT ENFORCEMENT PROGRAM INTO FEDERAL COMPLIANCE," and does hereby report back with the recommendation **TO DO PASS**.

The Committee votes are as follows:

<u>8</u>	<b>To Pass</b>
<u>0</u>	<b>Not To Pass</b>
<u>0</u>	<b>To The Inactive File</b>
<u>0</u>	<b>Abstained</b>
<u>0</u>	<b>Off-Island</b>
<u>2</u>	<b>Not Available</b>

A copy of the Committee Report and all pertinent documents are attached for your information and file.

Sincerely,

  
JOSEPH F. ADA

# VOTING SHEET

## BILL 214 (LS)

Committee on Power, Public Safety and the Judiciary

COMMITTEE MEMBER

RECOMMEND:  
TO PASS

NOT TO PASS

TO REPORT OUT ONLY

ABSTAIN

INACTIVE FILE

Signature

Senator Joseph F. Ada, Chairman

✓

*Joseph F. Ada*

Senator Kaleo S. Moylan, Vice Chairman

Speaker Antonio R. Unpingco

✓

*[Signature]*

Vice Speaker Larry F. Kasperbauer

X

*LJK*

Senator Tom C. Ada *T.C. Ad*

✓

*T.C. Ad*

Senator Eddie B. Calvo

✓

*[Signature]*

Senator Felix P. Camacho

Senator Mark C. Charfauros *[Signature]*

✓

Senator Mark Forbes

✓

*[Signature]*

Senator Angel L.G. Santos

✓

*[Signature]*

COMMITTEE REPORT

ON

BILL NO. 214 (LS)

COMMITTEE ON POWER, PUBLIC SAFETY AND THE JUDICIARY

“AN ACT TO REPEAL, REENACT, ADD AND AMEND SECTIONS OF TITLE 4 AND 5 OF THE GUAM CODE ANNOTATED RELATIVE TO THE DUTY OF GOVERNMENTAL AGENCIES AND PRIVATE ENTITIES TO PROVIDE INFORMATION FOR CHILD SUPPORT PURPOSES, AND TO PROVIDE SAFEGUARDS FOR UNAUTHORIZED DISCLOSURE THEREFORE; TO ENSURE DUE PROCESS IN ADMINISTRATIVE ACTIONS; TO PROVIDE FOR COURT ORDERED JOB SEARCH FOR UNEMPLOYED OR UNDEREMPLOYED ABSENT PARENTS; TO AUTHORIZE AGREEMENTS WITH FINANCIAL INSTITUTIONS; TO REQUIRE SOCIAL SECURITY NUMBERS ON PROFESSIONAL OR OCCUPATIONAL LICENSE OR CERTIFICATE APPLICATIONS; TO PROVIDE FOR VARIOUS EXPEDITED ADMINISTRATIVE PROCEDURES; TO PROVIDE FOR ADDITIONAL GUIDELINES FOR THE DIRECTORY OF NEW HIRES; AND TO PROVIDE FOR THE NATIONAL MEDICAL SUPPORT NOTICE, ALL RELATIVE TO BRINGING GUAM'S CHILD SUPPORT ENFORCEMENT PROGRAM INTO FEDERAL COMPLIANCE.”

COMMITTEE MEMBERS

Chairman: Joseph F. Ada  
Vice Chairman: Kaleo S. Moylan  
Ex-Officio Member: Antonio R. Unpingco

Lawrence F. Kasperbauer, Member  
Thomas C. Ada, Member  
Eddie B. Calvo, Member  
Felix P. Camacho, Member  
Mark C. Charfauros, Member  
Mark Forbes, Member  
Angel L.G. Santos, Member

COMMITTEE REPORT  
COMMITTEE ON POWER, PUBLIC SAFETY AND THE JUDICIARY

**BILL NO. 214 (LS)**

“AN ACT TO REPEAL, REENACT, ADD AND AMEND SECTIONS OF TITLE 4 AND 5 OF THE GUAM CODE ANNOTATED RELATIVE TO THE DUTY OF GOVERNMENTAL AGENCIES AND PRIVATE ENTITIES TO PROVIDE INFORMATION FOR CHILD SUPPORT PURPOSES, AND TO PROVIDE SAFEGUARDS FOR UNAUTHORIZED DISCLOSURE THEREFORE; TO ENSURE DUE PROCESS IN ADMINISTRATIVE ACTIONS; TO PROVIDE FOR COURT ORDERED JOB SEARCH FOR UNEMPLOYED OR UNDEREMPLOYED ABSENT PARENTS; TO AUTHORIZE AGREEMENTS WITH FINANCIAL INSTITUTIONS; TO REQUIRE SOCIAL SECURITY NUMBERS ON PROFESSIONAL OR OCCUPATIONAL LICENSE OR CERTIFICATE APPLICATIONS; TO PROVIDE FOR VARIOUS EXPEDITED ADMINISTRATIVE PROCEDURES; TO PROVIDE FOR ADDITIONAL GUIDELINES FOR THE DIRECTORY OF NEW HIRES; AND TO PROVIDE FOR THE NATIONAL MEDICAL SUPPORT NOTICE, ALL RELATIVE TO BRINGING GUAM’S CHILD SUPPORT ENFORCEMENT PROGRAM INTO FEDERAL COMPLIANCE.”

**I. PUBLIC HEARING**

The Committee on Power, Public Safety and Judiciary held a public hearing on November 27, 2001 at 10:00 a.m. to hear testimony on Bill No. 214 (LS) “AN ACT TO REPEAL, REENACT, ADD AND AMEND SECTIONS OF TITLE 4 AND 5 OF THE GUAM CODE ANNOTATED RELATIVE TO THE DUTY OF GOVERNMENTAL AGENCIES AND PRIVATE ENTITIES TO PROVIDE INFORMATION FOR CHILD SUPPORT PURPOSES, AND TO PROVIDE SAFEGUARDS FOR UNAUTHORIZED DISCLOSURE THEREFORE; TO ENSURE DUE PROCESS IN ADMINISTRATIVE ACTIONS; TO PROVIDE FOR COURT ORDERED JOB SEARCH FOR UNEMPLOYED OR UNDEREMPLOYED ABSENT PARENTS; TO AUTHORIZE AGREEMENTS WITH FINANCIAL INSTITUTIONS; TO REQUIRE SOCIAL SECURITY NUMBERS ON PROFESSIONAL OR OCCUPATIONAL LICENSE OR CERTIFICATE APPLICATIONS; TO PROVIDE FOR VARIOUS EXPEDITED ADMINISTRATIVE PROCEDURES; TO PROVIDE FOR ADDITIONAL GUIDELINES FOR THE DIRECTORY OF NEW HIRES; AND TO PROVIDE FOR THE NATIONAL MEDICAL SUPPORT NOTICE, ALL RELATIVE TO BRINGING GUAM’S CHILD SUPPORT ENFORCEMENT PROGRAM INTO FEDERAL COMPLIANCE.”

Senator Joseph F. Ada, Chairman of the Committee on Power, Public Safety and Judiciary, called the hearing to order. Other committee members and Senators were also present.

## II. TESTIMONY

During testimony on Bills 168 and Bill 214, it was determined the bills were contradictory and the Department of Law agreed to reconcile the bills and offer a new version as a substitute. That reconciliation was presented to the Committee on June 12, 2002. Written testimony in support of the new version came from acting Attorney General Robert Kono, IV-D Director Melinda Taitano, and Senator Frank Aguon.

## III. FINDINGS

The Committee finds that Bill No. 214 (LS), as substituted, will bring the laws of Guam into compliance with mandates of the federal government and effectively eliminates the conflicts between the original two pieces of legislation.

## IV. RECOMMENDATIONS

The Committee on Power, Public Safety and Judiciary hereby reports Bill No. 214 (LS), as substituted by the committee, with the recommendation ***TO DO PASS.***

*2nd Rdy*  
*9/3/02*

**ANNOTATED**

*MINA' BENTE SAIS NA LIHESLATURAN GUAHAN*  
**TWENTY-SIXTH GUAM LEGISLATURE**  
**2002 (SECOND) Regular Session**

**Bill No. 214 (Substitute)**

Substituted by the Committee on Power,  
Public Safety & the Judiciary

AN ACT TO REPEAL, REENACT, ADD AND AMEND SECTIONS OF TITLE 4 AND 5 OF THE GUAM CODE ANNOTATED RELATIVE TO THE DUTY OF GOVERNMENTAL AGENCIES AND PRIVATE ENTITIES TO PROVIDE INFORMATION FOR CHILD SUPPORT PURPOSES, AND TO PROVIDE SAFEGUARDS FOR UNAUTHORIZED DISCLOSURE THEREFOR; TO ENSURE DUE PROCESS IN ADMINISTRATIVE ACTIONS; TO PROVIDE FOR COURT ORDERED JOB SEARCH FOR UNEMPLOYED OR UNDEREMPLOYED ABSENT PARENTS; TO AUTHORIZE AGREEMENTS WITH FINANCIAL INSTITUTIONS; TO REQUIRE SOCIAL SECURITY NUMBERS ON PROFESSIONAL OR OCCUPATIONAL LICENSE OR CERTIFICATE APPLICATIONS; TO PROVIDE FOR VARIOUS EXPEDITED ADMINISTRATIVE PROCEDURES; TO PROVIDE FOR ADDITIONAL GUIDELINES FOR THE DIRECTORY OF NEW HIRES; AND TO PROVIDE FOR THE NATIONAL MEDICAL SUPPORT NOTICE, ALL RELATIVE TO BRINGING GUAM'S CHILD SUPPORT ENFORCEMENT PROGRAM INTO FEDERAL COMPLIANCE

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 **Section 1. Legislative Findings.** The Child Support Enforcement Office within the  
3 Department of Law administers Guam's child support enforcement program pursuant to a State Plan  
4 and applicable federal laws. Oversight is provided by the Region IX Administrator for Children and  
5 Families under the United States Department of Health and Human Services. Guam's program has  
6 been behind in its federal compliance responsibilities for lack of an appropriate legal framework  
7 within which to operate the local program brought about by new federal laws with which Guam must  
8 comply. The Child Support Enforcement Office must bring Guam's program into compliance

1 immediately with its State Plan obligations in the areas of collection and use of social security  
 2 numbers for child support enforcement purposes; work requirements for persons owing past due  
 3 child support; financial institution data matches; expedited administrative and judicial procedures;  
 4 privacy safeguards; and Guam's Directory of New Hires. The Legislature finds that certain additions  
 5 and revisions to Guam's child support laws are necessary so that Guam's child support enforcement  
 6 program meets the latest federal requirements. It is the intent of this Legislature to enable the Child  
 7 Support Enforcement Office to administer its program to the utmost of its abilities in accordance  
 8 with federal guidelines, and in the best interest of children who are in need of support.

9 *Section 2. [Note: Section 466(c) of the Social Security Act (SSA) requires the state child  
 10 support enforcement agency, and not the tribunal or court, be vested with the authority to pursue  
 11 certain actions in support of establishing paternity and/or a support order, as well as enforcing  
 12 and modifying the order, under what's known as "expedited administrative and judicial  
 13 procedures." Existing code §34103.1 concerns certain expedited administrative procedures.  
 14 Subsection (b) is being added to existing code §34103.1 to spell out that the parties involved in  
 15 these expedited administrative procedures are afforded full procedural due process rights under  
 16 these circumstances. Guam is committed to include these measures under §2.12-2 of its State  
 17 Plan.]* A new Subsection (b) is added to §34103.1 of Title 5, Guam Code Annotated to read:

18 " (b) Any administrative action against an obligor to secure assets to satisfy child  
 19 support arrearage and current support obligation, including but not limited to, intercepting  
 20 or seizing periodic payments, or attaching and seizing assets of the obligor's property as  
 21 provided by law, shall in all cases provide for:

- 22 (1) Written notice to the obligor and to the custodial parent of the action to
- 23 be taken and the legal basis for that action;
- 24 (2) The opportunity for the obligor to contest the action and to request a
- 25 hearing on the matter; and
- 26 (3) The opportunity for the obligor to appeal on the record.

27 *Section 3. [Note: The same comment to Section 2 of this Substitute Bill applies to this  
 28 Section 3. New subsection (c) being added to existing code §34103.1 of 5 GCA will afford full  
 29 review of any administrative action taken.]* A new Subsection (c) is added to §34103.1 of Title 5,



1 Guam Code Annotated to read:

2 “(c) Any hearing or appeal resulting from the administrative action shall be to the  
3 Judicial Hearings Division of the Superior Court.”

4 **Section 4.** *[Note: Section 466(a)(15) of the SSA requires payment of support by the*  
5 *obligor pursuant to a plan approved by the tribunal or state agency, or if the obligor is subject to*  
6 *such a plan and is not working but not incapacitated, then the obligor must participate in “work*  
7 *activities” as defined by §407(d) of the SSA. This includes job searches which the Guam court*  
8 *regularly orders, but the SSA requires that this be spelled out in the law. Guam is committed to*  
9 *this requirement pursuant to §2.12-15 of its State Plan. In order to meet this requirement, a new*  
10 *subparagraph (9) is being added to existing code §34105(a).] Paragraph (1) of Subsection (a) of*  
11 *§34105 of Title 5, Guam Code Annotated is amended to read: [Further note: “Paragraph (1) of”*  
12 *should be removed and the preceding sentence should begin with the words “Subsection (a).”]*

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

19 (1) To recover such amounts of back support and any other amounts as may  
20 be due and owing under an existing court order, whether owed to the Department or  
21 to the custodial parent or other person having custody of the minor child;

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

23 (3) To establish paternity;

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

26 (5) To obtain orders of wage assignment;

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

1 (7) To recover necessary expenses incurred by or for the mother in connection  
2 with the birth of her child, for the funeral expenses if the child has died, for expenses  
3 incurred in connection with pregnancy of the mother, except as limited by (b) of this  
4 Section; and

5 (8) To recover reimbursement of the cost of support for the child before the  
6 commencement of the action, determined by using the appropriate Child Support  
7 Guidelines currently in effect, except as limited by (b) of this Section; and

8 (9) To obtain orders requiring the obligor owing back support to pay in  
9 accordance with a plan approved by the court or child support enforcement agency,  
10 and to seek court ordered job searches as necessary for unemployed or  
11 underemployed absent parents; provided, that if an obligor is under an approved  
12 payment plan but not working and not incapacitated, the obligor shall be ordered to  
13 participate in a job search.”

14 Section 5. *[Note: Under §466(c) of the SSA concerning expedited procedures, subsections*  
15 *(1)(B), (1)(C), and (1)(D) require better and prompt access by the state agency to records which*  
16 *will assist the state agency in carrying out its duties. These may be records of public agencies,*  
17 *public and private utilities, financial institutions and all employers. Guam is committed to this*  
18 *requirement pursuant to §2.12-2 of its State Plan. Existing code §34109 of 5 GCA adequately*  
19 *addressed the former federal requirements, but needs to be revised in its entirety to address the*  
20 *newer federal requirements. Safeguards for unauthorized disclosure will follow in a subsequent*  
21 *section of this Substitute Bill.] Sections 34109 of Title 5, Guam Code Annotated is repealed and*  
22 *reenacted to read:*

23 ~~“§34109. Duty of Agencies to Cooperate. Authority of Attorney General to~~  
24 ~~Request Information; Compliance with Request. (a) All agencies, departments, bureaus~~  
25 ~~and divisions shall cooperate in locating absent parents who are not supporting their children,~~  
26 ~~and shall provide to the Department or the Attorney General, on request, all the information~~  
27 ~~it has about the income, location and property of the absent parent, notwithstanding other~~  
28 ~~provisions of law which make such information confidential. The Department and the~~  
29 ~~Attorney General may use this information only to obtain child support from absent parents~~

1 and shall make no disclosures of it except for that purpose. The Attorney General and any  
2 other state's IV-D agency may request the following information to carry out the provisions  
3 of this Chapter, and such information shall be provided upon request;

4 (1) The records of the following public officers and local agencies:

5 (A) the Office of Vital Statistics of the Department of Public Health  
6 and Social Services;

7 (B) the Division of Public Welfare of the Department of Public  
8 Health and Social Services;

9 (C) the Motor Vehicle Division of the Department of Revenue and  
10 Taxation;

11 (D) any tax or business licensing branches or divisions of the  
12 Department of Revenue and Taxation with regard to the following,  
13 but not limited thereby: income, revenue, assets, and other financial  
14 information; residential addresses of individuals; identity of  
15 employers; and ownership and control of corporations, partnerships  
16 and other business entities;

17 (E) the Records Division of the Department of Land Management;

18 (F) all boards, commissions and agencies which issue occupational or  
19 professional licenses, certificates or permits;

20 (G) the Department of Labor;

21 (H) the Department of Integrated Services for Individuals with  
22 Disabilities;

23 (I) the Guam Housing and Urban Renewal Authority;

24 (J) the Department of Corrections;

25 (K) any law enforcement agencies or any other agencies which  
26 maintain records of criminal history; and

27 (L) any other agencies administering any public assistance program.

28 (2) The records of any public utilities, internet and long distance services or  
29 carriers, and community antenna or cable television companies with regard to their

1 customers's names, addresses, and employer's names and addresses; and

2 (3) Information in the possession of financial institutions relating to the assets  
 3 and liabilities of their customers. Financial institutions shall not be liable for such  
 4 disclosure. As used in this section, "financial institution" is defined in 5 GCA  
 5 §34109.1.

6 (4) Information in the possession of any public or private employer or other  
 7 entity, including but not limited to for-profit and non-profit entities, relating to the  
 8 employment, compensation and benefits of any individuals employed by such entity  
 9 as an employee or as an independent contractor.

10 (b) ~~Nothing in this Section shall be construed to compel the disclosure of information~~  
 11 ~~relating to an absent parent who is a recipient of aid under a public assistance program for~~  
 12 ~~which Federal aid is paid to this Territory, if such information is required to be kept~~  
 13 ~~confidential by the Federal law or regulations relating to such program. If a person or other~~  
 14 ~~entity fails to supply the information requested pursuant to Subsection (a) of this §34109, the~~  
 15 ~~Attorney General may issue a subpoena to compel the person or entity to provide that~~  
 16 ~~information. The Attorney General and any other state's IV-D agency may request any~~  
 17 ~~information necessary to carry out the provisions of this Chapter or the provisions of such~~  
 18 ~~state's child support enforcement program in accordance with applicable federal or state law.~~  
 19 ~~Any person or entity that fails to comply with a request made pursuant to §34109 is subject~~  
 20 ~~to a civil penalty of not more than Five Hundred Dollars (\$500.00) for each failure to~~  
 21 ~~comply."~~

22 **Section 6. [Note: Section 469A of the SSA concerns unauthorized disclosure of**  
 23 **information from financial institutions with regard to child support cases, and provides for a**  
 24 **remedy in federal district courts. Guam is committed to this requirement pursuant to §3.13 of its**  
 25 **State Plan. The language of existing code §34110 of 5 GCA concerns information gathering by**  
 26 **the state agency for child support purposes, a subject which is now fully covered by Section 5 of**  
 27 **this Substitute Bill immediately above. Hence, existing code §34110 would have been repealed**  
 28 **here, becoming an unused number in the child support code. Since the unauthorized disclosure**  
 29 **requirements which must be added to our child support code seemed best suited to immediately**

1 follow §34109 and since §34110 would be a vacant number, the requirements are placed in  
 2 §34110 by repealing its contents in their entirety and by reenactment of entirely new material to  
 3 fit the federal requirements.] Section 34110 of Title 5, Guam Code Annotated is repealed and  
 4 reenacted to read:

5 ~~“§34110. Assistance by Private Parties. Unauthorized Disclosure of~~  
 6 ~~Information; Civil Damages. Upon request of the Attorney General, or upon receipt of a~~  
 7 ~~subpoena issued by the clerk of the Superior Court of Guam, at the request of a private~~  
 8 ~~attorney representing an obligee, any employer in Guam, including government of Guam~~  
 9 ~~departments, agencies, and entities, shall furnish to the Attorney General or such private~~  
 10 ~~attorney representing an obligee the last known address, social security number and any~~  
 11 ~~information it has concerning wages, salary, and income of the absent parent the subject of~~  
 12 ~~the request or subpoena: (a) A disclosure made in good faith pursuant to §34109 shall not~~  
 13 ~~give rise to any action for damages for the disclosure; except that with regard to financial~~  
 14 ~~records from financial institutions, such information may be disclosed only for the purpose~~  
 15 ~~of establishing, modifying or enforcing a child support obligation. ‘Financial record’ as used~~  
 16 ~~in §§34109 and 34110 shall have the same meaning as defined in §1101 of the Right to~~  
 17 ~~Financial Privacy Act of 1978 (12 U.S.C. 3401), as may be amended.~~

18 (b) The individual whose financial records were disclosed may bring a civil action  
 19 in the District Court of Guam pursuant to 42 U.S.C. 669a. Any public officer or employee  
 20 who knowingly or negligently discloses a financial record for purposes other than as  
 21 authorized is liable for (1) the costs and attorneys’s fees of the action, and (2) damages in an  
 22 amount equal to the greater of (i) the sum of \$1,000 for each act of unauthorized disclosure,  
 23 or (ii) the sum of the actual damages sustained by reason of the unauthorized disclosure plus  
 24 punitive damages if the disclosure is willful or is a result of gross negligence; except that no  
 25 liability shall be found where there is a good faith disclosure of a financial record, but  
 26 erroneous interpretation of Subsection (a) of this §34110 with regard to financial records.

27 (c) The provisions of §34310 are in addition to any other remedies available.”

28 Section 7. *[Note: Section 466(a)(17) of the SSA concerns financial institution data*  
 29 *matches. The existing code section in 5 GCA concerning this subject needs to be updated to*

1 *define “financial institution” according to federal authority in §469A(d) of the SSA. Guam’s*  
 2 *corresponding State Plan commitment is in §2.12-17.]* Subsection (a) of §34109.1 of Title 5, Guam  
 3 Code Annotated is amended to read:

4 “§34109.1 **Agreements with Financial Institutions.** (a) The Attorney General shall  
 5 enter into agreements with financial institutions doing business on Guam to coordinate the  
 6 development and operation of a system for matching data, using automated exchanges or data  
 7 to the maximum extent feasible. As used in this section, ‘financial institution’ means any  
 8 banking institution or trust company, savings and loan institution, credit union, finance  
 9 company, insurance company or related corporation, partnership, benefit association,  
 10 foundation, safe deposit company, money market mutual fund or similar entity authorized  
 11 to do business on Guam.”

12 *Section 8. [Note: Section 466(a)(13) of the SSA requires the collection of social security*  
 13 *numbers on various certificates and records, and specifically on professional licences, drivers*  
 14 *licences, occupational licences, recreational licences and marriage licences. It is important to*  
 15 *note that the licensing entity is merely required to collect the SS number. According to recent*  
 16 *changes in federal law concerning privacy, disclosure of the SS number and its use as a means*  
 17 *of identification has become more limited. While the federal child support laws require that*  
 18 *licensing authorities gather the SS number of its applicants and retain it in their records, the*  
 19 *licensing authority is still required to follow any new federal privacy measures. Section*  
 20 *466(a)(13) of the SSA does not compete with the new federal privacy laws; they exist side by side.*  
 21 *This new code §34109.2 is drafted so as not to offend the new federal privacy laws.]* A new  
 22 §34109.2 is added to Title 5, Guam Code Annotated to read:

23 “§34109.2 **Social Security Numbers Required for Certain License Applications.**  
 24 Each licensing board, commission, or other entity which issues professional, occupational,  
 25 motor vehicle, recreational, or marriage licenses or certificates shall record the Social  
 26 Security number of an applicant for such license or certificate on the application and shall  
 27 enter this information in its data base in order to aid the Attorney General in locating parents  
 28 or their assets, or in enforcing child support orders.”

29 *Section 9. [Note: Section 466(c) of the SSA concerning expedited administrative*

1 *procedures contains a subsection (1)(A) which requires that the state agency be able to order*  
 2 *genetic testing on its own. Guam is committed to this requirement pursuant to §2.12-2 of its State*  
 3 *Plan. A new section is added to 5 GCA where other sections on paternity already appear.] A new*  
 4 §34119.6 is added to Title 5, Guam Code Annotated to read:

5 “§34119.6. The Attorney General may order blood tests or other tests for genetic  
 6 identification of the child, mother and alleged father, if such tests are not ordered pursuant  
 7 to 5 GCA §34119.”

8 **Section 10.** *[Note: Section 466(c) of the SSA concerning expedited procedures requires*  
 9 *wage withholding of an obligor by the state agency. Guam is committed to this requirement*  
 10 *pursuant to §2.12-2 of its State Plan. Existing code §34133 of 5 GCA is about mandatory wage*  
 11 *assignments and the logical place in the child support code to place this new addition.] A new*  
 12 Subsection (c) (6) is added to §34133 of Title 5, Guam Code Annotated to read:

13 “(c) (6) Order for Income Withholding by Attorney General.

14 (A) In addition to any other remedy provided by law for the enforcement of  
 15 support, if a child support amount has been ordered, the Attorney General  
 16 shall order income withholding.

17 (B) A copy of the order for income withholding shall be transmitted to the  
 18 Judicial Hearings Division of the Superior Court, and is final. The Attorney  
 19 General shall enforce and collect upon the order, including arrearage.

20 (C) The order is in full force and effect while any judicial review is pending,  
 21 unless stayed by the court.

22 (D) The Judicial Hearings Division may review an order of the Attorney  
 23 General for income withholding *de novo* as an appeal therefrom.

24 (E) Whenever appropriate, the Attorney General shall order the obligor or  
 25 other payor to change the payee to the appropriate government entity, so long  
 26 as notice is given to the obligor and obligee.”

27 **Section 11.** *[Note: Section 466(c)(1)(G) of the SSA concerning expedited administrative*  
 28 *procedures requires the state agency to use certain assets of an obligor to secure payments for*  
 29 *arrears. Subsection (ii) of that section requires attachment of private or public retirement funds*

1 *of the obligor to pay child support arrears owed by the obligor. Guam is committed to this*  
 2 *requirement under §2.12-2 of its State Plan. Existing code §8166 of 4 GCA concerns a*  
 3 *government of Guam retiree's benefits' freedom from attachment. As it exists on the books, only*  
 4 *current child support may be paid out of a retiree's benefits. The section must be changed to*  
 5 *include the payment of arrears as well. At the same time, the author of this proposed change*  
 6 *recognized the somewhat inartful manner in which the existing code section was written, and*  
 7 *reorganized and rewrote it in a manner more concise and in plain English without changing its*  
 8 *meaning whatsoever. Hence, while the proposed new §8166 appears to be completely different,*  
 9 *all the substantive aspects of the existing §8166 are carried over into the proposed new section*  
 10 *with the addition of the new arrearage language.]* Section §8166 of Title 4, Guam Code Annotated  
 11 is repealed and reenacted to read:

12       “§8166. Right to Annuity. The right to a retirement, disability annuity, survivors  
 13 annuity or benefit, death benefit or any other benefit under the provisions hereof, or refund,  
 14 by whatever name called, is personal with the recipient thereof and the assignment or transfer  
 15 of such benefit, refund, or any part thereof, shall be void, except as herein provided. Any  
 16 such benefit, or refund shall not answer for debts contracted by the person receiving the  
 17 same, and it is the intention of this Chapter that the same shall not be attached by judicial  
 18 proceeding, except for orders issued by the Superior Court of Guam for prospective  
 19 payments of prospective child support, which may also include, but are not limited to, wage  
 20 assignments and writs of attachment which specifically order the Retirement Fund to pay  
 21 some part of the members benefits for ongoing support; and except for court orders issued  
 22 by the Superior Court of Guam in divorces dividing community property interests but only  
 23 in cases where the court finds that the parties were married for at least ten (10) years during  
 24 which years the member worked for the government of Guam accumulating retirement  
 25 benefits, and in the case of division of retirement benefits in a divorce, which specifically  
 26 orders the Retirement Fund to pay some part of the members benefits to the prior spouse.  
 27 Whenever the Superior Court orders the Retirement Fund to pay on behalf of an obligee, to  
 28 a prior spouse, the maximum amount it may order is fifty percent (50%) of the obligees  
 29 benefits. Any such funds to be collected from the Retirement Fund pursuant to such orders



1 shall be payable to the obligee only at the time the funds would otherwise be released to the  
 2 member: (a) It is the intention of this Chapter that rights to retirement funds, disability or  
 3 survivor's annuities or benefits, death benefits, or refund of whatever kind, not be attached  
 4 by judicial proceeding, or assigned, or transferred for payment of any debt, except for:

5 (1) Court ordered child support and child support arrears; or

6 (2) Retirement benefits awarded by court order. Not more than fifty percent  
 7 (50%) of a member's retirement benefits may be paid to a prior spouse, and only if  
 8 it is court ordered. In addition, in order for a prior spouse to receive a portion of a  
 9 member's retirement, the parties must have been married for a least ten (10) years  
 10 during the period the member accrued retirement benefits.

11 (b) A prior spouse may receive a court ordered retirement portion only at the time  
 12 funds are released to a member."

13 **Section 12. [Note: Existing code §34121 of 5 GCA is entitled and concerns vacation and**  
 14 **modification of child support orders. However, the first sentence of this existing code section is**  
 15 **a rogue sentence concerning another subject matter, judgments, and should have been placed in**  
 16 **an existing code section concerning judgments, 5 GCA §34107, when these code sections were**  
 17 **originally written and adopted. Sections 12 and 13 of this Substitute Bill are an attempt to clear**  
 18 **up this inappropriate placement and nothing more. There is no federal requirement to clear up**  
 19 **this misplacement. Section 12 of this Substitute Bill removes the rogue sentence, and Section 13**  
 20 **adds the removed sentence where it should have appeared all along.] Section 34121 of Title 5,**  
 21 **Guam Code Annotated is repealed and reenacted to read:**

22 **"§34121. Vacation or Modification of Orders.** ~~An order for child support is a final~~  
 23 ~~judgment as to any installment or payment of money which has accrued up to the time either~~  
 24 ~~party makes a motion to set aside, alter or modify the order.~~ The provisions of any order  
 25 respecting maintenance or support may be modified only as to installments accruing  
 26 subsequent to the motion for modification and only upon a showing of a substantial and  
 27 material change of circumstances. Furthermore, any order directing payment of money for  
 28 support or maintenance of the spouse or the minor child or children shall not be suspended,  
 29 nor the execution of the order stayed, pending any appeal. The Superior Court of Guam shall

1 have authority to modify any order, award, stipulation, or agreement as to child support,  
 2 whether or not merged or integrated into a decree of divorce or separation, upon a showing  
 3 of substantial and material change of circumstances. Inability to provide support, or need for  
 4 increased support because of unreasonable obligations voluntarily incurred, shall not  
 5 constitute a showing of substantial and material change of circumstances.”

6 **Section 13.** *[Note: (A) The same comment to Section 12 of this Substitute Bill applies to*  
 7 *this Section 13. Please refer to Section 12. The sentence in §34121 of 5 GCA which was removed*  
 8 *in Section 12 of this Substitute Bill is added verbatim to §34107 of 5 GCA as subsection (b) in this*  
 9 *Section 13. What currently exists in §34107 is now placed under a new subsection (a). There is*  
 10 *no federal requirement for this change, it is a matter of clearing up a misplacement. (B) What*  
 11 *is proposed to be marked subsection (a) of §34107 is taken verbatim from existing code §34121*  
 12 *of 5 GCA with one change. The last sentence reading “Any proceeds of judgments or settlements*  
 13 *shall be deposited in the General Fund” was removed, but need not have been. Whenever a*  
 14 *depository account is not expressly mentioned, the money is deposited by default into the General*  
 15 *Fund, and so the removal of the sentence does not make any difference and can certainly be*  
 16 *added back in. It was felt that the sentence was unnecessary given that it would go into the*  
 17 *General Fund regardless, and the removal would not have been done except for the fact the*  
 18 *misplaced sentence from existing code §34121 was being added to this existing code section. As*  
 19 *a point of reference, the judgments the Department of Law obtains in child support cases is for*  
 20 *arrears which are owed either to the custodial parent, or to the Department of Public Health and*  
 21 *Social Services (DPHSS) if the custodial parent has been on public assistance, or for both.*  
 22 *Federal law strictly dictates where the “proceeds” go and how they are divided among the*  
 23 *custodial parent, DPHSS and the federal government. The Department of Administration already*  
 24 *has an accounting system set up for handling these “proceeds” in accordance with the federal*  
 25 *guidelines.] Section 34107 of Title 5, Guam Code Annotated is repealed and reenacted to read:*

26 “**§34107. Judgments and Orders.** (a) Upon final hearing, judgment for the  
 27 Department shall include all sums expended during the pendency of the action. When the  
 28 Department recovers judgment, it may enforce, compromise or settle the judgments with the  
 29 consent of the Attorney General in any way considered to be in the public interest. ~~Any~~

1 ~~proceeds of judgments or settlements shall be deposited in the General Fund.~~

2 (b) An order for child support is a final judgment as to any installment or payment  
3 of money which has accrued up to the time either party makes a motion to set aside, alter or  
4 modify the order.”

5 **Section 14.** *[Note: Section 466(c) of the SSA concerning expedited administrative*  
6 *procedures contains a requirement in subsection (1)(G) that certain assets of the obligor be*  
7 *attached to pay child support arrears. Whatever requirements have not already been incorporated*  
8 *into other portions of this Substitute Bill are now included here in this new code §34132.2 of 5*  
9 *GCA. Guam is committed to this requirement pursuant to §2.12-2 of its State Plan.]* A new  
10 §34132.2 is added to Title 5, Guam Code Annotated to read:

11 “**§34132.2. Other Enforcement Remedies.** (a) In cases in which there is a support  
12 arrearage, the Attorney General may order:

13 (1) intercepting or seizing periodic or lump-sum payments from:

14 (A) a government agency, including workers’ compensation and  
15 other benefits; or

16 (B) judgments, settlements, and lotteries.

17 (2) attachments and seizure of assets of the obligor held in financial  
18 institutions;

19 (3) attachments of public and private retirement funds;

20 (4) imposing liens and, in appropriate cases, forcing sales of property and  
21 distribution of proceeds; and

22 (5) increased monthly payments for payment of arrears.

23 (b) A copy of the order shall be transmitted to the Judicial Hearings Division of the  
24 Superior Court, and is final.

25 (c) The order is in full force and effect while any judicial review is pending, unless  
26 stayed by the court.

27 (d) The Judicial Hearings Division may review an order of the Attorney General *de*  
28 *novo* as an appeal therefrom.”

29 **Section 15.** *[Note: Section 466(c) of the SSA concerning expedited administrative*

1 *procedures requires under subsection (2)(A) that certain locator information be provided the state*  
 2 *agency by the DPHSS or parties applying for service. Locator information is to include “social*  
 3 *security number, residential and mailing addresses, telephone number, driver’s license number,*  
 4 *and name, address, and telephone number of employer.” Guam is committed to this requirement*  
 5 *pursuant to §2.12-2 of its State Plan. Existing code §34106 already contains the procedure for*  
 6 *initiating a case on a non-custodial parent and identifies some of the locator information required*  
 7 *on the previous federal law. New subsections (b), (c), and (d) are added to existing code §34106,*  
 8 *and what were existing subsections are renumbered here as (e) through (i).] Section 34106 of*  
 9 Title 5, Guam Code Annotated is repealed and reenacted to read:

10 **“§34106. Enforcement of Support; Procedure.** (a) Whenever the Department of  
 11 Public Health and Social Services (DPHSS) refers a case to the Attorney General, the  
 12 Department DPHSS shall furnish the Attorney General with the names, ages and addresses  
 13 of the persons for whom support is being sought, and in any subsequent child support action,  
 14 the name, and mailing and residential addresses of the custodial parent; the name and mailing  
 15 and residential addresses of the absent non-custodial parent; the legal basis of the duty of  
 16 support; the amount of public assistance, if any, expended by the Department DPHSS up  
 17 until to that time; if any; the needs of the family according to welfare budgetary standards;  
 18 the amount due and owing under an existing court order or agreement, if any; ~~the existence~~  
 19 ~~of any factors described in Subsection (d) of 5 GCA §34104,~~ and any other pertinent  
 20 information, including, but not limited to, social security numbers, driver’s license numbers,  
 21 telephone numbers, and addresses of parties, and their employers’ names, addresses and  
 22 telephone numbers.

23 (b) Parties who apply for child support services shall also supply to the Attorney  
 24 General the information set forth in Subsection (a) of this §34106.

25 (c) Parties to any paternity or child support proceeding are required to update the  
 26 information set for in Subsections (a) and (b) above, as appropriate.

27 (d) All information provided to Attorney General pursuant to this section shall be  
 28 provided to the court upon request.

29 (e) After receiving the information, the Attorney General shall immediately take all

1 steps necessary to obtain an order of support.

2 (f) The grant of aid to the applicant shall not be delayed or be contingent upon  
3 investigation by the Attorney General, except as provided in Subsection (d) of this section.

4 (g) The Attorney General shall investigate complaints of the ~~Department~~ DPHSS of  
5 continued absence of a parent of a child ~~or children~~ who qualifies for assistance under the  
6 laws providing for such assistance for underage dependent children.

7 (h) The Attorney General shall prepare and file a complaint in the name of the  
8 ~~Department~~ DPHSS and prosecute such proceedings whenever ~~his~~ an investigation shows  
9 such prosecution is warranted. The proceedings shall be governed by the Rules of Civil  
10 Procedure.

11 (i) In any child support or paternity action in which the government appears, the  
12 Attorney General represents solely the interest of the territory government in establishing  
13 paternity and in providing child support enforcement services under Federal and Guam law.  
14 Nothing in this section shall be construed to modify any statutory mandate, authority or  
15 confidentiality required of any government agency, nor does representation by the Attorney  
16 General create an attorney-client relationship between the attorney and any party, other than  
17 the territory government of Guam. The mandate of the Attorney General in child support  
18 cases is to take all steps necessary to obtain fair and equitable child support from all persons  
19 liable therefor, and to represent the interests of the government of Guam.”

20 **Section 16. [Note: Section 466(c) of the SSA concerning expedited administrative**  
21 **procedures requires the state agency to have the authority to take certain action as mentioned in**  
22 **subsection (1) thereof. Guam is committed to this requirement pursuant to §2.12-2 of its State**  
23 **Plan. Existing code §34202(c) of 5 GCA defining “court order of support” requires an**  
24 **amendment to ensure that all administrative processes are covered.]** Subsection (c) of §34202 of  
25 Title 5, Guam Code Annotated is amended to read:

26 “(c) ‘Court order of support’ means any judgment or order for the support of  
27 dependent children, or for payments on an arrearage arising out of failure to comply with  
28 such judgment or order, issued by any court of Guam, another territory, or a state, including  
29 an order in a final decree of divorce or judgment or order issued in accordance with an

1 administrative procedure established by state or local law that affords substantial due process  
 2 and is subject to judicial or administrative review, as the case may be.”

3 **Section 17.** *[Note: Section 466(a) of the SSA concerns required statutory procedures to*  
 4 *improve the effectiveness of the state agency’s program. Subsection (16) requires the withholding*  
 5 *or suspension of certain licenses such as driver’s licenses, professional and occupational licenses,*  
 6 *and recreational licenses. Guam has already enacted Article 2 of Chapter 34 of 5 GCA to address*  
 7 *these requirements. One existing code section, however, does not clearly indicate the government*  
 8 *entity which should determine compliance in the context “compliance” is used. Therefore, the*  
 9 *words “from the Department” (meaning the Department of Law) are being added in the initial*  
 10 *phrase. At the same time, it was felt that clarification was needed for the government entity*  
 11 *determining the re-issuance, renewal or extension of a license to be able to do so without*  
 12 *interference, and so the words “in its sole discretion” were also added to the existing code*  
 13 *section.]* Section 34215 of Title 5, Guam Code Annotated is amended to read:

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

24 **Section 18.** *[Note: Section 453a of the SSA concerns a state directory of new hires for*  
 25 *child support enforcement purposes. Guam enacted such laws in Article 3 of Chapter 5 of 5 GCA*  
 26 *pursuant to P.L. 25-161:8 which became effective on July 10, 2000. However, Guam’s Child*  
 27 *Support Enforcement Office was informed by its federal oversight that certain portions of Article*  
 28 *3 did not meet federal requirements and so Guam remains in non-compliance with §3.15 of its*  
 29 *State Plan on this subject. Sections 18 through 24, inclusive, of this Substitute Bill attempt to*

1 *address the necessary corrections. Sections 18, 19 and 20 are new definitions.]* A new Subsection  
 2 (g) is added to §34301 of Title 5, Guam Code Annotated to read:

3 “(g) ‘Secretary’ shall mean the Secretary of U.S. Department of Health and Human  
 4 Services.”

5 **Section 19.** *[Note: Please see the comment to Section 18 of this Substitute Bill.]* A new  
 6 Subsection (h) is added to §34301 of Title 5, Guam Code Annotated to read:

7 “(h) ‘Director of New Hires’ shall mean the Attorney General or his designee within  
 8 the Child Support Enforcement Office of the Department.”

9 **Section 20.** *[Note: Please see the comment to Section 18 of this Substitute Bill.]* A new  
 10 Subsection (i) is added to §34301 of Title 5, Guam Code Annotated to read:

11 “(i) ‘Working day’ or ‘business day’ as used in this Article 2 shall mean a day on  
 12 which the government of Guam is open for regular business.”

13 **Section 21.** *[Note: Please see the comment to Section 18 of this Substitute Bill. Subsection*  
 14 *(b) of existing code §34303 is being removed as there are no reporting exceptions under federal*  
 15 *law.]* Subsection (b) of §34303 of Title 5, Guam Code Annotated is repealed in its entirety.

16 ~~(b) An employer is not required to report to the Director of New Hires the hiring of~~  
 17 ~~any person who will:~~

18 ~~(1) be employed for less than three (3) months duration;~~

19 ~~(2) have gross earnings of less than Three-hundred dollars (\$300.00) per~~  
 20 ~~month;~~

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

23 **Section 22.** *[Note: Please see the comment to Section 18 of this Substitute Bill.*  
 24 *Subsection (b)(1)(B) of §453A of the SSA has requirements for reporting by multi-state*  
 25 *employers, a requirement omitted by Guam when Article 3 was drafted and enacted two years ago.*  
 26 *Existing code §34306 is being changed to include these requirements by adding a new subsection*  
 27 *(b) and placing what exists into a subsection (a).]* Section 34306 of Title 5, Guam Code Annotated  
 28 is repealed and reenacted to read:

29 “§34306. **Information Required to Be Reported; Multi-state Employers.** (a)

1 Reports required under §34303 of this Chapter must contain:

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

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

6 (b) If an employer has employees who are employed in two or more states, one of  
 7 which is Guam, and the employer transmits reports magnetically or electronically, then it  
 8 may comply with the provisions of Subsection (a) of this §34306 by designating one state  
 9 in which such employer has employees to which the employer will transmit the report  
 10 described in Subsection (a) of this §34306, and then transmitting such report to such state.  
 11 Any employer that transmits reports pursuant to Subsection (b) of this §34306 shall notify  
 12 the Secretary in writing as to which state such employer designates for the purpose of  
 13 sending reports."

14 *Section 23. [Note: Please see the comment to Section 18 of this Substitute Bill. The first*  
 15 *sentence of subsection (a) of existing code §34307 is being removed because it conflicts with*  
 16 *federal law which does not allow the destruction of any new hire information. The rest of existing*  
 17 *subsection (a) was then renumbered as subsection (b). Then, a new subsection (a) was drafted,*  
 18 *with what was left in existing subsection (b), and includes a new first sentence. What was existing*  
 19 *subsection (c) became new subsection (e). Then, new subsections (c), (d), (f) and (g) were added.]*

20 Section 34307 of Title 5, Guam Code Annotated is repealed and reenacted to read:

21 "~~§34307. Access to and Disposition of Information; ~~Date.~~~~ (a) ~~The Director of~~  
 22 ~~New Hires shall destroy information supplied by employers relating to the hiring of~~  
 23 ~~employees six (6) months after the information is supplied to it. The Director of New Hires~~  
 24 shall ensure that information received from an employer pursuant to this Article 3 will be  
 25 entered into the Directory of New Hires within five (5) working days of receipt. Within three  
 26 (3) working days after entry into the Directory of New Hires, the Director of New Hires shall  
 27 furnish the information to the National Directory of New Hires.

28 (b) Data contained in the Directory of New Hires shall be disclosed only to  
 29 authorized employees of the Child Support Enforcement Office, or to other state IV-D



1 agencies as may be requested.

2 (c) The Child Support Enforcement Office shall use the information received to  
 3 locate individuals for purposes of establishing paternity and establishing, modifying, and  
 4 enforcing child support obligations, and may disclose such information to any agent of the  
 5 Child Support Enforcement Office under contract to carry out such purposes.

6 (d) Within two (2) working days after the date information regarding a newly hired  
 7 employee is entered into the Directory of New Hires, the Department shall transfer a notice  
 8 to the employer directing the employer to withhold from the income of the employee an  
 9 amount equal to the monthly or other periodic child support obligation, including any  
 10 payment ordered for past due support, unless the employee's income is not subject to  
 11 withholding pursuant to a finding of the court or administrative body that there is good cause  
 12 not to require immediate income withholding, or a written agreement is reached between  
 13 both parties which provides for an alternative arrangement. In any event, however, the  
 14 income of a non-custodial parent shall become subject to withholding on the date the non-  
 15 custodial parent's support obligation is in arrears one month, or on the date the non-custodial  
 16 parent requests that the withholding begin, or on the date the custodial parent requests the  
 17 withholding begin and the Department determines there is no request why the request should  
 18 not be approved, or on the date the Department so elects.

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

25 (f) The Department of Labor and Workers Compensation Commission shall have  
 26 access to the data received from employers pursuant to this §34307 for purposes of  
 27 administering employment security or workers compensation programs, but shall limit  
 28 disclosure of such information for this authorized purpose only.

29 (g) The Division Public Welfare of the Department of Public Health and Social

1 Services, and any other agency administering a federal program enumerated in 42 U.S.C.  
 2 §1320b-7(b) shall have access to the information reported by employers for purposes of  
 3 verifying eligibility for such program, but shall limit disclosure of such information for this  
 4 authorized purpose only.”

5 **Section 24.** *[Note: Please see the comment to Section 18 of this Substitute Bill. The*  
 6 *federal requirement expressed in new §34309 is not in the existing Article 2 in Chapter 3 of 5*  
 7 *GCA on the State Directory of New Hires.]* A new §34309 is added to Title 5, Guam Code  
 8 Annotated to read:

9 “**§34309. Comparison of Information; Notice of Match.** (a) As soon as  
 10 practicable after the enactment of this section, the Department shall, either directly or by  
 11 contract, conduct automated comparisons of the social security numbers reported by  
 12 employers pursuant to this Article 2 and the social security numbers appearing in the records  
 13 of Guam’s case registry.

14 (b) When an information comparison conducted pursuant to Subsection (a) of §34309  
 15 reveals a match with respect to the social security number of an individual required to  
 16 provide support under a support order, the Department shall take immediate steps to update  
 17 its case registry with the information in the Directory of New Hires.”

18 **Section 25.** *[Note: Existing code §34109 requires all government of Guam agencies to*  
 19 *cooperate with the Department of Law for child support enforcement purposes whenever the*  
 20 *Department requests. On the other hand, existing code §34212 requires that licensing bodies*  
 21 *provide updated information quarterly. It was felt that clarification was needed that the two code*  
 22 *sections are separate requirements, and that the quarterly report does not replace any request the*  
 23 *Department of Law may make of the licensing body at any other time.]* Section 34212 of Title 5,  
 24 Guam Code Annotated is amended to read:

25 “**§34212. Exchange of Information.** Notwithstanding §34109, within six (6)  
 26 months of the effective date of this Act, all licensing bodies shall provide, and update  
 27 quarterly, the Department with information, concerning applicants for licensure and current  
 28 license holders, on magnetic tape or other machine readable form, if available. Such  
 29 information shall include the license holder or applicant’s name, address of record, Federal

1 employer identification number or social security number, type of license, effective date of  
 2 license or renewal, expiration date of license, and active or inactive status.”

3 **Section 26.** *[Note: Section 466(a) of the SSA concerns required statutory procedures to*  
 4 *improve the effectiveness of the state agency’s child support enforcement program. Subsection*  
 5 *(16) requires authority to withhold or suspend certain licenses for various reasons. One of the*  
 6 *reasons is for failure to comply with warrants and subpoenas concerning paternity or child*  
 7 *support proceedings. This requirement is being added as a new §34218.]* A new §34218 is added  
 8 to Title 5, Guam Code Annotated to read:

9 “**Section 34218. Failure to Comply with Warrants and Subpoenas.** The failure  
 10 of a non-custodial parent to comply with any warrant or subpoena issued relating to paternity  
 11 or to any other child support proceeding shall also result in the suspension, non-issuance, or  
 12 non-renewal of a non-custodial parent’s license in the same manner and using the same  
 13 procedure as indicated in this Article for non-compliance with an order of child support, and  
 14 any subsequent re-issuance, renewal or other extension of a license denied or suspended  
 15 pursuant to this section shall also conform to the procedure indicated in this Article for  
 16 subsequent re-issuance, renewal or other extension.”

17 **Section 27.** *[Note: Pursuant to §466(a)(19)(B) of the SSA and 45 CFR §303.32, all state*  
 18 *agencies are required to implement the use of a national form known as the National Medical*  
 19 *Support Notice which will allow quicker access to health insurance information of the obligor.*  
 20 *Existing code §34128 of 5 GCA concerns health insurance coverage and has been updated here*  
 21 *to include all the requirements of the recent federal changes.]* Section 34128 of Title 5, Guam  
 22 Code Annotated is repealed and reenacted to read:

23 “**§34128. Health Care Insurance Mandatory.** (a) Whenever the Superior Court  
 24 of Guam issues or modifies an order concerning child support, including provisions for child  
 25 support in a divorce decrees, it the court shall include health care insurance coverage for the  
 26 child or children as part of both parents’ obligation of support if health care insurance is  
 27 available at a reasonable cost. The court shall determine the burden of obligation of support  
 28 for health insurance from either or from both parents in the best interest of the child or  
 29 children.

1 (b) When an obligor is ordered to provide health insurance for a minor child, the child  
2 is eligible for health care coverage as a dependent of the obligor until the child's eighteenth  
3 (18) birthday or until further order of the court, and without regard to open enrollment  
4 restrictions. If health care coverage is available through an employer, the employer, the  
5 employer must:  
6 (1) permit the obligor to enroll under family coverage any child who is  
7 otherwise eligible for coverage without regard to open enrollment restrictions;  
8 (2) enroll the child under family coverage upon application of the custodial  
9 parent, if the obligor is enrolled but fails to make application to obtain coverage for  
10 the child;  
11 (3) enroll the child under family coverage upon application of the child  
12 support enforcement agency, if the obligor is enrolled but fails to make application  
13 to obtain coverage for the child, subject to Subsection (c) of this §34128, whenever  
14 the child receives:  
15 (A) temporary assistance for need families or foster care or Medicaid  
16 assistance; or  
17 (B) services provided upon application of a custodial parent to the  
18 Department;  
19 (4) not disenroll or eliminate coverage for any child, unless the employer is  
20 provided satisfactory written evidence that:  
21 (A) the order is no longer in effect;  
22 (B) the child is or will be enrolled in comparable coverage that will  
23 take effect no later than the effective date of enrollment; or  
24 (C) the employer has eliminated family health coverage for all of its  
25 employees;  
26 (5) withhold from the obligor's compensation the obligor's share, if any, of  
27 premiums for health care coverage and pay this amount to the health insurance  
28 provider; and  
29 (6) withhold fifty percent (50%) of the obligor's disposable income, if the

1 amount required to be withheld under Item (5) of Subsection (b) of this §34128,  
 2 either alone or when added to the total of any withholding required by a child support  
 3 order, exceeds fifty percent (50%) of the obligor's disposable income.

4 (c) ~~Before making application under Item (3) of Subsection (b) of this §343128, the~~  
 5 ~~child support enforcement agency shall provide written notice to the obligor that the obligor~~  
 6 ~~may contest the proposed application by filing a written request for a hearing within ten (10)~~  
 7 ~~days of the date the notice is issued. If the obligor contests the application for coverage, a~~  
 8 ~~hearing must be held, and the Court shall require the child support enforcement agency to~~  
 9 ~~make application if it determines coverage for the child is available to the obligor at a~~  
 10 ~~reasonable cost. If health care coverage through an employment-related group health care~~  
 11 ~~plan is available through the obligor's employer, the Child Support Enforcement Office shall~~  
 12 ~~send a National Medical Support Notice (NMSN) to the employer to transfer notice of the~~  
 13 ~~court-ordered provision for health care coverage; except that the NMSN need not be used if~~  
 14 ~~a court or administrative order provides for alternative coverage other than an employer-~~  
 15 ~~related health care plan. If a current order for medical support is no longer in effect, then the~~  
 16 ~~Child Support Enforcement Office shall promptly notify the employer. The form of NMSN~~  
 17 ~~was printed as an appendix to 65 Fed. Reg. 82154 (2000) (a portion of which was codified~~  
 18 ~~as 45 C.F.R. §303.32 without appendix).~~

19 (d) ~~A custodial and non-custodial parent shall be liable for the uninsured medical~~  
 20 ~~costs of the child in proportion to their respective percentage of income according to the~~  
 21 ~~child support guidelines. In addition to the provisions of this §34128 or the provisions of~~  
 22 ~~§34307 in this Title, within two (2) working days after the date information regarding a~~  
 23 ~~newly hired employee is entered into the Directory of New Hires, the Child Support~~  
 24 ~~Enforcement Office shall transfer the NMSN to the employer of an obligor whenever the~~  
 25 ~~child receives:~~

26 (A) temporary assistance for needy families or foster care or medicaid  
 27 assistance; or

28 (B) services which are provided upon application of a custodial parent to the  
 29 Department.

1           (e) An employer who has received an NMSN must transfer it to the plan  
 2           administrator of the appropriate group health plan within twenty (20) business days of the  
 3           date of the NMSN. If an employer who has received an NMSN fails to transfer the NMSN  
 4           to the plan administrator of the appropriate group health plan within the twenty business-day  
 5           period, then in a proceeding to enforce the transfer, the court may impose a fine on the  
 6           employer of up to Two Hundred Dollars (\$200) per calendar day that the employer has failed  
 7           to transfer the NMSN to the plan administrator to be paid to the General Fund, except that  
 8           if the employer is found to have willfully refused to comply with transferring the NMSN,  
 9           then the court may assess up to Five Hundred Dollars (\$500) per calendar day. A business  
 10           day as used in this subsection (e) shall mean a day on which the government of Guam is open  
 11           for business.

12           (f) An employer must withhold from the obligor's compensation the obligor's share,  
 13           if any, of premiums for health care coverage and pay amounts withheld directly to the health  
 14           insurance provider; except that, if the amount required to be withheld for health care  
 15           coverage, either alone or when added to the total of any withholding required by a child  
 16           support order, exceeds fifty percent of the obligor's disposable income, then the employer  
 17           shall withhold fifty percent (50%) of the obligor's disposable income, and shall apply the  
 18           amount withheld first to the obligor's share of premiums for health care coverage.

19           (g) The obligor may contest the withholding for health care coverage at any time, but  
 20           only on the basis of mistake of fact. To contest, the obligor must file a written request for a  
 21           hearing with the Child Support Enforcement Office, which shall put the matter on for  
 22           hearing, and the court shall determine whether the withholding for health care coverage is  
 23           improper due to a mistake of fact. Regardless of any contest filed or which is pending, the  
 24           employer shall initiate withholding or continue withholding for health care coverage. The  
 25           Child Support Enforcement Office shall notify the employer of the court's determination  
 26           only if the withholding is affected in any manner.

27           (h) So long as an obligor is employed, the employer of the obligor may not disenroll  
 28           or eliminate coverage for any of the obligor's children covered, unless the employer has  
 29           eliminated family health coverage for all of its employees, or unless the employer is notified

1 in writing by the Child Support Enforcement Office either that the order for health coverage  
 2 is no longer in effect, or that the child is or will be enrolled in comparable coverage which  
 3 will take effect no later than the effective date of disenrollment.

4 (i) An employer must notify promptly the Child Support Enforcement Office  
 5 whenever the non-custodial parent's employment is terminated, along with the non-custodial  
 6 parent's last known address and the name and address of the non-custodial parent's new  
 7 employer, if known.

8 (j) Whenever a custodial or non-custodial parent incurs uninsured but necessary  
 9 health care costs of their children, the parent incurring the costs may present receipts to the  
 10 court and the court may decide upon a reimbursement plan and enter an order for payment  
 11 by one parent to the other. The reimbursement plan shall be in proportion to each parent's  
 12 respective percentages of income according to child support guidelines.

13 (k) If the obligor's employer has more than one option for health care coverage  
 14 available, the Child Support Enforcement Office must promptly select one of the options  
 15 after consulting with the custodial parent."

16 **Section 28. [Note: Existing code §34138 of 5 GCA concerns an employer's rights and**  
 17 **responsibilities in relation to an employee's child support obligation. Subsection (d) thereof**  
 18 **provides that other civil and criminal remedies are available to all parties with regard to child**  
 19 **support or spousal support, but needs to be updated to include medical support obligations as well.**  
 20 **This is not a federal requirement, but a local clarification.]** Subsection (d) of §34138 of Title 5,  
 21 Guam Code Annotated is repealed and reenacted to read:

22 "(d) Nothing in this Chapter shall be construed to limit the use of any other civil or  
 23 criminal remedies to enforce child, spousal or medical support obligations."

24 **Section 29. [Note: Existing code §34102 contains general definitions for use with the child**  
 25 **support code sections. Clarification is needed that the term "Attorney General" refers to**  
 26 **designated employees of the Department of Law as well, where appropriate. This is not a federal**  
 27 **requirement but a local clarification.]** A new subsection (6) is added to §34102 of Title 5, Guam  
 28 Code Annotated to read:

29 "(6) *Attorney General* means the Attorney General of Guam or his designee within

1 the Department of Law, Family Division.”

2 Section 30. *[Note: Section 466(a) of the SSA requires each state to have certain statutory*  
 3 *procedures in place to improve effectiveness of its child support enforcement program.*  
 4 *Subsection (14) concerns high-volume, automated administrative enforcement in interstate cases.*  
 5 *A new §35104 is added to Guam’s Uniform Interstate Family Support Act in Article 1 of Chapter*  
 6 *35 of 5 GCA to cover the new requirements.]* A new §35104 is added to Title 5, Guam Code  
 7 Annotated to read:

8 “§35104. **High-Volume Automated Administrative Enforcement.** The Guam  
 9 child support enforcement agency shall use high-volume automated administrative  
 10 enforcement to the same extent as used in intrastate cases, in response to a request made by  
 11 another state to enforce support orders, and shall promptly report the results of such  
 12 enforcement procedure to the requesting state. As used for interstate cases of child support  
 13 enforcement, the term “high-volume automated administrative enforcement” shall mean the  
 14 use of automatic data processing to search through data bases to determine whether  
 15 information is available regarding a parent owing a child support obligation.”

16 Section 31. *[Note: In order to satisfy §454(20)(A) of the SSA, §466(g) of the SSA requires*  
 17 *that states must have certain laws concerning fraudulent or void transfers with regard to child*  
 18 *support matters. A new §34154 was drafted to provide for these requirements.]* A new §34154  
 19 is added to Title 5, Guam Code Annotated to read:

20 “§34154. **Fraudulent Transfers; Voiding of Fraudulent Transfers.** (a) A transfer  
 21 or encumbrance of property, real or personal, which is incurred by a non-custodial parent  
 22 owing arrears is fraudulent as to the arrears owed, regardless of whether the arrearage arises  
 23 before or after the transfer or encumbrance, if the transfer or encumbrance is made with  
 24 actual intent to hinder, delay, or defraud the person to whom the arrearage is owed, and shall  
 25 be void as against the person to whom the arrearage is owed. Actual intent shall be  
 26 determined as provided in 10 GCA §6103.

27 (b) Whenever the Department is aware of a fraudulent transfer or encumbrance, the  
 28 Department shall seek to void such transfer or encumbrance to the extent necessary to satisfy  
 29 the arrearage, or obtain a settlement in the best interests of the person to whom the arrearage



1

is owed.”



# MINA 'ENTE SAIS NA LIHESLATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,  
yan Asuntion Fidirát, Taotao Hiyong yan Hinirát

*Senadot Mark Forbes, Gebilu  
Kabisiyon Mayurát*



109 NOV 2001

## MEMORANDUM

TO: Chairman  
Committee on Power, Public Safety and the Judiciary

FROM: ~~Chairman~~  
Committee on Rules, General Governmental Operations, Reorganization  
and Reform, and Federal, Foreign and General Affairs

SUBJECT: Principal Referral – Bill No. 214

The above bill is referred to your Committee as the Principal Committee, in accordance with Section 6.04.05.01. of the Standing Rules. Your Committee is the Committee authorized to perform the public hearing on this bill and to amend or substitute the bill, as well as report the bill out to the Body. It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

**MARK FORBES**

Attachment

OCT 30, 2001

MINA' BENTE SAIS NA LIHESLATURAN GUAHAN  
TWENTY-SIXTH GUAM LEGISLATURE  
2001 (FIRST) Regular Session

Bill No. 214(LS)

Introduced by:

Committee on Rules, General Governmental  
Operations, Reorganization and Reform,  
and Federal, Foreign and General Affairs

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

AN ACT TO REPEAL, REENACT AND AMEND SECTIONS OF  
TITLES 4 AND 5 GUAM CODE ANNOTATED, RELATIVE TO  
THE DUTY OF GOVERNMENTAL AGENCIES AND PRIVATE  
ENTITIES TO PROVIDE INFORMATION FOR CHILD SUPPORT  
PURPOSES, AND RELATED MATTERS

BE IT ENACTED BY THE PEOPLE OF GUAM:

**Section 1.** Sections 34109 and 34110 of Title 5 Guam Code Annotated are repealed and reenacted as 5 GCA §34109 to read:

“§34109. Authority of Attorney General to Request Information to Carry Out Chapter; compliance with request.

(a) The Attorney General and any other states IV-D agency may request the following information to carry out the provisions of this section:

(1) The records of the following public officers and local agencies:

(A) the Office of Vital Statistics;

(B) the Department of Revenue and Taxation (with regard to income and licensing records, and other documents);

(C) the Department of Land Management;

(D) all boards, commissions and agencies that issue occupational or professional licenses, certificates or permits;

(E) the Department of Labor;

(F) the Department of Integrated Services for Individuals with Disabilities;

(G) the Department of Public Health and Social Services;

(H) the Motor Vehicle Division, Department of Revenue and Taxation;

(I) the Department of Corrections; and

(J) Law enforcement agencies and any other agencies that maintain records of criminal history.

(2) The names and addresses of:

(A) The customers of public utilities, Internet and long distance services, and community antenna television companies; and

(B) the employers of the customers describe in subparagraph (A).

(3) Information in the possession of financial institutions relating to the assets, liabilities and any other details of the finances of a person. As used in this section, "financial institution" is defined in 5 GCA §34109.5.

(4) Information in the possession of a public or private employers relating to the employment, compensation and benefits of a person employed by the employer as an employee or independent contractor.

(b) If a person or other entity fails to supply the information requested pursuant to Subsection (a) of this Section 34109, the Attorney General may issue a subpoena to compel the person or entity to provide that information. Any person or entity who fails to comply with a request made pursuant to Subsection (a) is subject to a civil penalty of not more than Five Hundred Dollars (\$500.00) for each failure to comply.

(c) A disclosure made in good faith pursuant to Subsection (a) of this Section 34109 shall not give rise to any action for damages for the disclosure."

Section 2. A new 5 GCA §34119.1 is added to read:

"§34119.1. The Attorney General may order blood tests or tests for genetic identification of the child, mother and alleged father, if such tests are not ordered pursuant to 5 GCA §34119."

**Section 3.** A new Subsection (c) (6) is added to 5 GCA §34133 to read:

“(c) (6). Order for Income Withholding by Attorney General.

(A) In addition to any other remedy provided by law for the enforcement of support, if a child support amount has been ordered, the Attorney General shall order income withholding.

(B) A copy of the order for income withholding shall be transmitted to the Judicial Hearings Division of the Superior Court, and is final. The Attorney General shall enforce and collect upon the order, including arrearage.

(C) The order is in full force and effect while any judicial review is pending, unless stayed by the court.

(D) The Judicial Hearing Division may review an order of the Attorney General for income withholding de novo as an appeal therefrom.”

**Section 4.** 4 GCA §8166 is repealed and reenacted to read:

“§8166. Right to Annuity.

(a) It is the intention of this Chapter that rights to retirement funds, disability or survivor’s annuities or benefits, death benefits, or refund of whatever kind, not be attached by judicial proceeding, or assigned, or transferred for payment of any debt, except for:

(1) court ordered child support and child support arrears; or

(2) retirement benefits awarded by court order. Not more than fifty percent (50%) of a member’s retirement benefits is to be paid to a prior spouse, and only if it is court ordered. In addition, in order for a prior spouse to receive a portion of a member’s retirement, the parties must have been married for a least ten (10) years during the period the member accrued retirement benefits.

(b) A prior spouse may receive a court ordered retirement portion only at the time funds are released to a member.”

Section 5. 5 GCA §34121 is repealed and reenacted to read:

“§34121. Vacation or Modification of Orders/

The provision of any order respecting maintenance or support may be modified only as to installments accruing subsequent to the motion for modification and only upon a showing of a substantial and material change of circumstances. Furthermore, any order directing payment of money for support or maintenance of the spouse or the minor child or children shall not be suspended, nor the execution of the order stayed, pending any appeal. The Superior Court of Guam shall have authority to modify any order, award, stipulation, or agreement as to child support, whether or not merged or integrated into a decree of divorce or separation, upon a showing of substantial and material change of circumstances. Inability to provide support, or need for increased support because of unreasonable obligations voluntarily incurred, shall not constitute a showing of substantial and material change of circumstances.”

Section 6. 5 GCA §34107 is repealed and reenacted to read:

“§34107. Judgments, Orders and Proceeds.

(a) Upon final hearing, judgment for the Department shall include all sums expended during the pendency of the action. When the Department recovers judgment, it may enforce, compromise or settle the judgment with the consent of the Attorney General in any way considered to be in the public interest.

(b) An order for child support is a final judgment as to any installment or payment of money which has accrued up to the time either party makes a motion to set aside, alter or modify the order.”

Section 7. A new 5 GCA §34132.2 is added to read:

“§34132.2. Other Enforcement Remedies.

(a) In cases in which there is a support arrearage, the Family Division may order:

(1) intercepting or seizing periodic or lump-sum payments from:

(A) a government agency, including workers' compensation and other benefits;

(B) judgments, settlements, and lotteries.

- (2) attachments and seizure assets of the obligor held in financial institutions;
- (3) attachments of public and private retirement funds; and
- (4) imposing liens and, in appropriate cases, forcing sale of property and distribution of proceeds; and
- (5) increased monthly payments for payment of arrears.

(b) A copy of the order shall be transmitted to the Judicial Hearings Division of the Superior Court, and is final.

(c) The order is in full force and effect while any judicial review is pending, unless stayed by the court.

(d) The Judicial Hearings Division may review an order of the Attorney General de novo as an appeal therefrom.”

**Section 8.** 5 GCA §34106 is repealed and reenacted to read:

“§34106. Enforcement of Support; Procedure. (a) Whenever the Department of Public Health and Social Services (DPHSS) refers a case to the Attorney General, the DPHSS shall furnish the Attorney General with the names, ages and addresses of the persons for whom support is being sought, and in any subsequent child support action, the name, and mailing and residential addresses of the custodial parent; the name and mailing and residential addresses of the absent parent; the legal basis of the duty of support; the amount of public assistance, if any, expended by DPHSS up to that time; the needs of the family according to welfare budgetary standards; the amount due and owing under an existing court order or agreement, if any; the existence of any factors described in Subsection (d) of 5 GCA §34104, and any other pertinent information, including, but not limited to, social security numbers (driver’s license numbers), telephone numbers, employers’ names, addresses and telephone numbers of each party.

(b) Parties who apply for child support services shall also supply the information set forth in Subsection (a) of this Section 34106 to the Family Division.

(c) Parties to any paternity or child support proceeding are required to update the information set for in Subsections (a) and (b) above, as appropriate.

(d) All information provided to Family Division pursuant to this section shall be provided to the Judicial Hearing Division upon request.

(e) After receiving the information, the Attorney General immediately take all steps necessary to obtain an order of support.

(f) The grant of aid to the applicant shall not be delayed or be contingent upon investigation by the Attorney General, except as provided in Subsection (d) of this Section.

(g) The Attorney General shall investigate complaints of the Department of continued absence of a parent of a child who qualifies for assistance under the laws providing for such assistance for underage dependent children.

(h) The Attorney General shall prepare and file a complaint in the name of the Department and prosecute such proceedings whenever an investigation shows such prosecution is warranted. The proceedings shall be governed by the Rules of Civil Procedure.

(i) In any child support or paternity action in which the government appears, the Attorney General represents solely the interest of the government in establishing paternity and in providing child support enforcement services under Federal and Guam law. Nothing in this section shall be construed to modify any statutory mandate, authority or confidentiality required of any government agency, nor does representation by the Attorney General create an attorney-client relationship between the attorney and any party, other than the government of Guam. The mandate of the Attorney General in child support cases is to take all steps necessary to obtain fair and equitable child support from all persons liable therefor, and to represent the interests of the government of Guam.”



**Mina' Bente Sais na Liheslaturan Guahan**  
*The 26th Guam Legislature*

The Office of  
**Senator Joseph F. Ada**, Chairman  
 Committee on Power, Public  
 Safety & the Judiciary

**27 Nov. 2001**

**PUBLIC HEARING**  
**BILL 214 (LS)**

**WITNESS SIGN-IN SHEET**

	PRINT NAME	Representing Self, Dept or Agency (pls specify dept or agency)	Telephone #	Mailing Address	Testimony	
					For	Against
1.	JOSEPH C. SAN AGUSTIN	FAM DIV (DEPT OF LAO)	775-3360	PO BOX 24634 GUMF, GU 96921	✓	
2.	DONALD PAILLET	FAM DIV Dept LA	789-5225	60 Calle De S. Pedro YUMA 9695	✓	
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

CARL T.C. GUTIERREZ  
Maga'lahi  
Governor

MADELEINE Z. BORDALLO  
Tinente Gubetnadora  
Lieutenant Governor

DEPARTMENT OF LAW  
UFISINAN HINIRAT ABUGAO *Hinirat Abugao Akto*  
Guahan

OFFICE OF THE ATTORNEY GENERAL  
of Guam

*Dibision Familia*  
Family Division

ROBERT H. KONO

*Attorney General, Acting*

DEBORAH A.M. RIVERA  
*Segundo Hinirat Abugao*  
Deputy Attorney General

MELINDA TAITANO  
*Direktor, IV-D*  
IV-D Director

Senator Joseph Ada  
Chairman on the Committee on Power,  
Public Safety and the Judiciary  
155 Hesler Street  
Hagatna, Guam 96910

**RECEIVED**

6-19-02



June 12, 2002

Dear Senator:

Hafa Adai!

On June 12, 2002 our office sent you a memorandum regarding Substitute Bill 214 addressing all our outstanding child support state plan as required in the Social Security Act Title IV part D section 454. [42 U.S.C. 654] A State plan for child and spousal support.

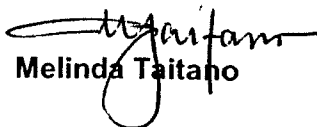
During my discussion with Mr. JP Soden, Region IX, Program Specialist OCSE, he informed me that the possibility of Guam's IV-D Agency receiving a Notice of Intent (NOI) to disapprove our State Plan might be forthcoming if we do not act on this matter immediately. I am confident that you and your colleagues will do everything in your authority to address this matter as soon as possible.

We are currently waiting for federal approval to conduct a pre-certification system review sometime by the end of July 2002. As we speak, OCSE auditors are reviewing our system test deck for accuracy and reliability. For the past two years, with the combined knowledge and experience of our staff and system vendor, we have been working toward this common goal. However, all these efforts could be negated should our state plan be disapproved.

With your support in passing this piece of vital legislation, the staff at the Family Division, Department of Law can continue to move towards achieving a federally mandated certified child support system.

Once again, I invite you and your colleagues to come and visit our office to see the daily operation that affects the lives of thousands of children. Without the continued support of this Government, this service that we provide to our island children would not be possible.

Dangkolo Na Agradesimiento – Thank You Very Much!

  
Melinda Taitano

cc: Senators of the 26<sup>th</sup> Guam Legislature

COMMONWEALTH NOW!

130 East Marine Drive • Ada's Commercial & Professional Center • Suite 103B • Hagåtña, GU 96910-5165

Telephone No. (671) 475-3360 • Facsimile No. (671) 477-6118

CARL T.C. GUTIERREZ  
Maga'lahi  
Governor

DEPARTMENT OF LAW  
UFISINAN HINIRAT ABUGAO  
Guahan

ROBERT H. KONO  
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OFFICE OF THE ATTORNEY GENERAL  
of Guam

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Segundo Hinirat Abugao  
Deputy Attorney General

Dibision Familia  
Family Division

MELINDA TAITANO  
Direktor, IV-D  
IV-D Director

June 12, 2002

**FOR HAND DELIVERY**

The Honorable Joseph F. Ada  
Senator, Twenty-Sixth Guam Legislature; and Chairman,  
Committee on Power, Judiciary and Public Safety  
Sinajana Commercial Building, Phase II  
777 Route 4, Suite 5-A  
Sinajana, Guam

Re: Proposed Legislation Concerning Child Support Enforcement

Dear Senator Ada,

Hafa Adai!

Enclosed is a proposed substitute bill marked "Bill No. 214 (Substitute)" which is intended to replace Bill Nos. 168 and 214. A diskette containing the proposed substitute bill is also enclosed for your use.

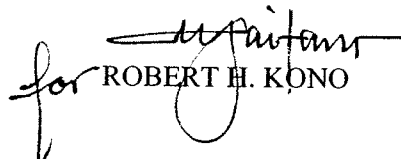
Sections 1 through 15 of the proposed substitute bill are essentially the same in substance as those sections which were in Bill Nos. 168 and 214, except for minor grammatical or syntax corrections. The remaining sections, 16 through 31, contain additional material as further required for federal compliance with Guam's State Plan for child support enforcement.

The Family Division Deputy, Deborah Rivera, took over drafting responsibilities for the program earlier this year, and authored new sections 16 through 31 in this substitute bill. She is available to answer any of your questions concerning the entire substitute bill and the federal laws with which we are complying. She may be reached at her direct number, 475-3343.

We certainly appreciate your continued efforts to support Guam's child support program, and hope that you are successful in encouraging the senators to pass this very important measure, without which Guam's program is jeopardized.

Dangkolo' Na Agradesimiento- Thank You Very Much!

Sincerely,

  
for ROBERT H. KONO

Enclosures (2)  
CSEltrlegislationx1

COMMONWEALTH NOW!

130 East Marine Drive • Ada's Commercial & Professional Center • Suite 103B • Hagåtña, GU 96910-5165

Telephone No. (671) 475-3360 • Facsimile No. (671) 477-6118



RECEIVED

6-21-02

FRANK BLAS AGUON, JR.

Senator

June 20, 2002

Senator Joseph F. Ada  
COMMITTEE ON POWER, PUBLIC SAFETY, AND THE JUDICIARY-CHAIRMAN  
Sinajana Commercial Bldg. Phase II  
Suite 5-A, Route 4  
777 Route 4  
Sinajana, Guam 96926

Over \$9,000,000 dollars annually has been collected and disbursed by the Guam Child Support Services for 44,500 active members of the program. This data is according to personnel that provided my office the opportunity to discuss concerns outlined in a letter received, in reference to legislation updating the current state plan or program for our territory.

This legislation is significant to the 30,000 custodial parents and children that could be effected by the loss of federal funding and the social impact on our economy, government, and social services.

As representatives for our people; it is incumbent upon us to support Bill 214; addressing Guam's outstanding child support state plan as required in the Social Security Act. Allow this to act as an endorsement on behalf of this office towards achieving a federally mandated certified child support system.

In addition, Guam's Child Support Enforcement Office receives 1,400 new cases per year with more cases opened for children who are not receiving public assistance than those who are. This is the same office that is responsible for recovering over \$100,000 monthly as reimbursement for what the government expends on public assistance, and struggling to meet our peoples needs with insufficient funding for an effective labor force.

Furthermore, I remain committed to discuss and act upon legislation at the request of said committee.

Respectfully,



SENATOR FRANK BLAS AGUON, JR.  
Twenty-Sixth Guam Legislature

cc: Child Support Services

6/20/02 2:14 PM



*Respetu Para Todu (Respect for All)*

I Mina' Bente Sais Na Liheslaturan Guåhan

Suite 101A \* Ada's Commercial and Professional Center \* 118 East Marine Drive \* Hagåtña, Guam 96910

Phone (671) 479-4GUM (4486/4828) \* Fax (671) 479-4827



**Buenas, Mr. Chairman, and Members of the 26<sup>th</sup> Guam Legislature**

**On behalf of the Attorney General's Office, Family Division, I would like to speak on the proposed Child Support legislation, Bill No. 168 and Bill 214.**

The goal of the Child Support Enforcement (CSE) Program, which was established in 1975 under Title IV-D of the Social Security Act, is to ensure that children are financially supported by both their parents. The Child Support Enforcement Program provides four major services: locating non-custodial parents, establishing paternity, establishing child support obligations, and enforcing child support orders.

Child support enforcement personnel/officials use local information and resources of State and Federal Parent Locator services to locate parents for child support enforcement here on Guam and abroad. Establishing paternity is a necessary first step for obtaining an order for child support when children are born out of wedlock. Establishing paternity also provides access to social security, pension and retirement benefits; health insurance and information; and interaction with members of both parents' families.

A parent can be required to pay child support by income withholding. The new welfare reform legislation establishes State and Federal registries of newly hired employees to speed the transfer of wage withholding orders. Overdue child support can be collected from federal and state income tax refunds. Liens can be put on property, and the property itself may even be sold with the proceeds used to pay child support arrearages. Unpaid child support should be reported automatically to credit reporting bureaus, and drivers, professional, occupational and recreational licenses can be suspended if the obligated parent is not paying support as required.

With the introduction of FIDM (Financial Institution Data Match), State child support enforcement agencies must conduct quarterly matches with hundreds of single-state financial institutions operating within their state. State agencies must also participate in matching at the federal level with thousands of multi-state financial institutions and process tens of thousands of matches resulting in collections through account seizures.

A State child support enforcement agency which obtains a financial record of an individual from a financial institution 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. State agencies also engage in interstate processing to identify and seize accounts located in another state. In addition, they engage in outreach to solicit the cooperation of financial institutions, perform customer services to address the concerns of delinquent obligors whose access to financial assets has been disrupted, and develop automated systems to routinely process and manage large numbers of cases.

### AUTHORITY TO WITHHOLD OR SUSPEND LICENSES

Procedures under which the State has authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

### FINANCIAL INSTITUTION DATA MATCHES.

Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State to develop and operate, in coordination with such financial institutions, and the Federal Parent Locator Service in the case of financial institutions doing business in two or more States, a data match system, using automated data exchanges to the maximum extent feasible.

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 non-custodial 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. 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 non-custodial parent who is subject to a child support lien.

**In closing, Mr. Chairman, and members of the 26<sup>th</sup> Guam Legislature, Bill 168 and Bill 214 is an essential piece of Child Support legislation whose purpose is in establishing parentage or setting the amount of, modifying, or enforcing child support obligations. This is an important tool that is necessary to locate the non-custodial parent or absent parent.**

GVB BOARD OF DIRECTORS: 4 p.m. Nov. 21, GVB main conference room, Tumon. For special accommodations, call 646-5278.

BOARD OF EXAMINERS FOR DENTISTRY: 3:30 p.m. Nov. 21, Health Professional Licensing office, 1302 E. Sunset Blvd., Tiyan. Agenda copies available at 1304 E. Sunset Blvd. For special accommodations, call 475-0251/2.

Nov. 22: Thanksgiving Day holiday. No meetings are scheduled.

GUAM SYSTEM OF CARE COUNCIL: 4 p.m. Nov. 23, GSAT, 19 Dean <sup>월</sup> Circle, UOG, Mangilao. All interested people are welcome. Call Victor Borja, 475-4625/9.

~~COMMITTEE ON POWER, PUBLIC SAFETY AND THE JUDICIARY: 10 a.m. Nov. 27, I Liheslaturan Guahan public hearing room, Hag??.~~ Bills no. 168, 214. For special accommodations, call office of Sen. Joseph Ada, 472-3431/2.

SOUTHERN GUAM SOIL & WATER CONSERVATION DISTRICT: 7 p.m. Nov. 27, UOG Experiment Station, Inarajan. All interested people welcome. Call 734-3948.

GPA BOARD OF DIRECTORS: Rescheduled meeting 6 p.m. Nov. 28, board conference room, second floor, Route 16, Harmon. All members urged to attend; public invited. For special accommodations, call 649-6805. For agenda copy, call 649-6912.

MAYORS COUNCIL OF GUAM: Rescheduled special meeting 10 a.m. Nov. 28, council <sup>월</sup> conference room, RJB complex, Adelup. Call Melva Dela Pena, 472-6940/47-6886/8461.

GHURA BOARD OF COMMISSIONERS: 5 p.m. Nov. 28, GHURA conference room. For special accommodations, call Michael Duenas, 477-9851/4 or TTY/TDD 472-3701.

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## GOVERNMENT MEETINGS

Editor's note: Government meeting submissions will be tightly edited. Meetings will run on a space-available basis. Deadlines is noon Friday for publication Saturday, Sunday and Monday, and noon Monday through Thursday for next day publication. In the event of a local holiday, deadline will be noon the previous weekday.

**GUAM SYSTEM OF CARE COUNCIL:** 4 p.m. Nov. 23, GSAT 19 Deon's Circle, UOG, Mangilao. All interested people are welcome. Call Victor Borja, 475-4625/9.

**COMMITTEE ON POWER, PUBLIC SAFETY AND THE JUDICIARY:** 10 a.m. Nov. 27, Uheslaburon Guahan public hearing room, Hagåtña. Bills No. 168, 214. For special accommodations, call office of Sen. Joseph Ada, 472-3431/2.

**COMMITTEE ON EDUCATION:** 2:30 p.m. Nov. 27, Vice Speaker's office, Uheslaburon Guahan, Hagåtña. Confirmation hearing on appointment of Sudi Guicoit as member of Guam Public Library Board. For special accommodations, call Vice Speaker Larry Kasperbauer at 475-5437. **GLUC/GPSC:** 1:30 p.m. Nov. 27, Department of Land Management's conference room, third floor, Room 320, One Stop Building, Anigua. Tentative development plan/seashore clearance for Hotel Nikko Guam; horizontal property regime for Villa Kanban Tsai. Call 475-5259.

**PROFESSIONAL ENGINEERS, ARCHITECTS AND LAND SURVEYORS BOARD:** 1:30 p.m. Nov. 27, board conference room, Tumon. All members urged to attend. Call 646-3115.

**CIVIL SERVICE COMMISSION BOARD:** 5:30 p.m. Nov. 27, 490 Chalan Palasyo, Agaña Heights. Hearing on E.M. Superales vs. GAA; motion hearing of P.F. Gantapanon vs. DOA; continuation of termination of employees pursuant to PL 26-35. Call 475-1300/01.

**KGTF-TV CHANNEL 12 BOARD OF TRUSTEES:** 5 p.m. Nov. 27, KGTF studio, Mangilao. For special accommodations, call 734-2207.

**SOUTHERN GUAM SOIL & WATER CONSERVATION DISTRICT:** 7 p.m. Nov. 27, UOG Experiment Station, Inarajan. All interested people welcome. Call 734-3948.

**MENTAL HEALTH PLANNING COUNCIL:** Noon Nov. 27, Department of Mental Health & Substance Abuse, Room 209. CMHS peer review report; implementation report; May 2002 Consumer/Planning Council conference update; binders; open forum. Bring lunch. For special accommodations, call 477-7671.

**GPA BOARD OF DIRECTORS:** Rescheduled meeting 6 p.m. Nov. 28, board conference room, second floor, Route 16, Harmon. All members urged to attend; public invited. For special accommodations, call 649-6805. For agenda copy, call 649-6912.

**MAYORS COUNCIL OF GUAM:** Rescheduled special meeting 10 a.m. Nov. 28, council's conference room, RB complex, Adelup. Call Melva Dela Pena, 472-6940/47-6886/8461.

**GHURA BOARD OF COMMISSIONERS:** 5 p.m. Nov. 28, GHURA conference room. For special accommodations, call Michael Duenas, 477-9851/4 or

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MINA' BENTE SAIS NA LIHESLATURAN GUAHAN  
TWENTY-SIXTH GUAM LEGISLATURE  
2001 (FIRST) Regular Session

Bill No. 214 (LS)

Introduced by:

Committee on Rules, General Governmental  
Operations, Reorganization and Reform,  
and Federal, Foreign and General Affairs

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

AN ACT TO REPEAL, REENACT AND AMEND SECTIONS OF  
TITLES 4 AND 5 GUAM CODE ANNOTATED, RELATIVE TO  
THE DUTY OF GOVERNMENTAL AGENCIES AND PRIVATE  
ENTITIES TO PROVIDE INFORMATION FOR CHILD SUPPORT  
PURPOSES, AND RELATED MATTERS

BE IT ENACTED BY THE PEOPLE OF GUAM:

1       **Section 1.** Sections 34109 and 34110 of Title 5 Guam Code Annotated are repealed and  
2 reenacted as 5 GCA §34109 to read:

3       “§34109. Authority of Attorney General to Request Information to Carry Out Chapter;  
4 compliance with request.

5       (a) The Attorney General and any other states IV-D agency may request the following  
6 information to carry out the provisions of this section:

7       (1) The records of the following public officers and local agencies:

8           (A) the Office of Vital Statistics;

9           (B) the Department of Revenue and Taxation (with regard to income and licensing  
10 records, and other documents);

11           (C) the Department of Land Management;

12           (D) all boards, commissions and agencies that issue occupational or professional  
13 licenses, certificates or permits;

14           (E) the Department of Labor;

1 (F) the Department of Integrated Services for Individuals with Disabilities;

2 (G) the Department of Public Health and Social Services:

3 (H) the Motor Vehicle Division, Department of Revenue and Taxation;

4 (I) the Department of Corrections: and

5 (J) Law enforcement agencies and any other agencies that maintain records of criminal  
6 history.

7 (2) The names and addresses of:

8 (A) The customers of public utilities, Internet and long distance services, and community  
9 antenna television companies; and

10 (B) the employers of the customers describe in subparagraph (A).

11 (3) Information in the possession of financial institutions relating to the assets, liabilities and  
12 any other details of the finances of a person. As used in this section, "financial institution" is  
13 defined in 5 GCA §34109.5.

14 (4) Information in the possession of a public or private employers relating to the employment,  
15 compensation and benefits of a person employed by the employer as an employee or independent  
16 contractor.

17 (b) If a person or other entity fails to supply the information requested pursuant to Subsection  
18 (a) of this Section 34109, the Attorney General may issue a subpoena to compel the person or entity  
19 to provide that information. Any person or entity who fails to comply with a request made pursuant  
20 to Subsection (a) is subject to a civil penalty of not more than Five Hundred Dollars  
21 (\$500.00) for each failure to comply.

22 (c) A disclosure made in good faith pursuant to Subsection (a) of this Section 34109 shall not give  
23 rise to any action for damages for the disclosure."

24 **Section 2.** A new 5 GCA §34119.1 is added to read:

25 "§34119.1. The Attorney General may order blood tests or tests for genetic identification  
26 of the child, mother and alleged father, if such tests are not ordered pursuant to 5 GCA §34119."

1       **Section 3.** A new Subsection (c) (6) is added to 5 GCA §3-133 to read:

2       “(c) (6). Order for Income Withholding by Attorney General.

3       (A) In addition to any other remedy provided by law for the enforcement of support, if a child  
4 support amount has been ordered, the Attorney General shall order income withholding.

5       (B) A copy of the order for income withholding shall be transmitted to the Judicial Hearings  
6 Division of the Superior Court, and is final. The Attorney General shall enforce and collect upon  
7 the order, including arrearage.

8       (C) The order is in full force and effect while any judicial review is pending, unless stayed by  
9 the court.

10       (D) The Judicial Hearing Division may review an order of the Attorney General for income  
11 withholding de novo as an appeal therefrom.”

12       **Section 4.** 4 GCA §8166 is repealed and reenacted to read:

13       “§8166. Right to Annuity.

14       (a) It is the intention of this Chapter that rights to retirement funds, disability or survivor’s  
15 annuities or benefits, death benefits, or refund of whatever kind, not be attached by judicial  
16 proceeding, or assigned, or transferred for payment of any debt, except for:

17       (1) court ordered child support and child support arrears; or

18       (2) retirement benefits awarded by court order. Not more than fifty percent (50%) of a  
19 member’s retirement benefits is to be paid to a prior spouse, and only if it is court ordered. In  
20 addition, in order for a prior spouse to receive a portion of a member’s retirement, the parties must  
21 have been married for a least ten (10) years during the period the member accrued retirement  
22 benefits.

23       (b) A prior spouse may receive a court ordered retirement portion only at the time funds are  
24 released to a member.”

1       **Section 5.** 5 GCA §34121 is repealed and reenacted to read:

2       “§34121. Vacation or Modification of Orders/

3       The provision of any order respecting maintenance or support may be modified only as to  
4 installments accruing subsequent to the motion for modification and only upon a showing of a  
5 substantial and material change of circumstances. Furthermore, any order directing payment of  
6 money for support or maintenance of the spouse or the minor child or children shall not be  
7 suspended, nor the execution of the order stayed, pending any appeal. The Superior Court of Guam  
8 shall have authority to modify any order, award, stipulation, or agreement as to child support,  
9 whether or not merged or integrated into a decree of divorce or separation, upon a showing of  
10 substantial and material change of circumstances. Inability to provide support, or need for increased  
11 support because of unreasonable obligations voluntarily incurred, shall not constitute a showing of  
12 substantial and material change of circumstances.”

13       **Section 6.** 5 GCA §34107 is repealed and reenacted to read:

14       “§34107. Judgments, Orders and Proceeds.

15       (a) Upon final hearing, judgment for the Department shall include all sums expended during  
16 the pendency of the action. When the Department recovers judgment, it may enforce, compromise  
17 or settle the judgment with the consent of the Attorney General in any way considered to be in the  
18 public interest.

19       (b) An order for child support is a final judgment as to any installment or payment of money  
20 which has accrued up to the time either party makes a motion to set aside, alter or modify the order.”

21       **Section 7.** A new 5 GCA §34132.2 is added to read:

22       “§34132.2. Other Enforcement Remedies.

23       (a) In cases in which there is a support arrearage, the Family Division may order:

24       (1) intercepting or seizing periodic or lump-sum payments from:

25               (A) a government agency, including workers’ compensation and other benefits;

26               (B) judgments, settlements, and lotteries.

- 1 (2) attachments and seizure assets of the obligor held in financial institutions;  
2 (3) attachments of public and private retirement funds; and  
3 (4) imposing liens and, in appropriate cases, forcing sale of property and distribution  
4 of proceeds; and  
5 (5) increased monthly payments for payment of arrears.

6 (b) A copy of the order shall be transmitted to the Judicial Hearings Division of the Superior  
7 Court, and is final.

8 (c) The order is in full force and effect while any judicial review is pending, unless stayed by  
9 the court.

10 (d) The Judicial Hearings Division may review an order of the Attorney General de novo as an  
11 appeal therefrom.”

12 **Section 8.** 5 GCA §34106 is repealed and reenacted to read:

13 “§34106. Enforcement of Support; Procedure. (a) Whenever the Department of Public Health  
14 and Social Services (DPHSS) refers a case to the Attorney General, the DPHSS shall furnish the  
15 Attorney General with the names, ages and addresses of the persons for whom support is being  
16 sought, and in any subsequent child support action, the name, and mailing and residential addresses  
17 of the custodial parent; the name and mailing and residential addresses of the absent parent; the legal  
18 basis of the duty of support; the amount of public assistance, if any, expended by DPHSS up to that  
19 time; the needs of the family according to welfare budgetary standards; the amount due and owing  
20 under an existing court order or agreement, if any; the existence of any factors described in  
21 Subsection (d) of 5 GCA §34104, and any other pertinent information, including, but not limited  
22 to, social security numbers (driver’s license numbers), telephone numbers, employers’ names,  
23 addresses and telephone numbers of each party.

24 (b) Parties who apply for child support services shall also supply the information set forth in  
25 Subsection (a) of this Section 34106 to the Family Division.

26 (c) Parties to any paternity or child support proceeding are required to update the information  
27 set for in Subsections (a) and (b) above, as appropriate.

1 (d) All information provided to Family Division pursuant to this section shall be provided  
2 to the Judicial Hearing Division upon request.

3 (e) After receiving the information, the Attorney General immediately take all steps necessary  
4 to obtain an order of support.

5 (f) The grant of aid to the applicant shall not be delayed or be contingent upon investigation by  
6 the Attorney General, except as provided in Subsection (d) of this Section.

7 (g) The Attorney General shall investigate complaints of the Department of continued absence  
8 of a parent of a child who qualifies for assistance under the laws providing for such assistance for  
9 underage dependent children.

10 (h) The Attorney General shall prepare and file a complaint in the name of the Department and  
11 prosecute such proceedings whenever an investigation shows such prosecution is warranted. The  
12 proceedings shall be governed by the Rules of Civil Procedure.

13 (i) In any child support or paternity action in which the government appears, the Attorney General  
14 represents solely the interest of the government in establishing paternity and in providing child  
15 support enforcement services under Federal and Guam law. Nothing in this section shall be  
16 construed to modify any statutory mandate, authority or confidentiality required of any government  
17 agency, nor does representation by the Attorney General create an attorney-client relationship  
18 between the attorney and any party, other than the government of Guam. The mandate of the  
19 Attorney General in child support cases is to take all steps necessary to obtain fair and equitable  
20 child support from all persons liable therefor, and to represent the interests of the government of  
21 Guam.”