

**7 GCA CIVIL PROCEDURE  
CH. 40 PROTECTION FROM ABUSE**

**CHAPTER 40  
PROTECTION FROM ABUSE**

**NOTE:** The Editor’s Note to the 1970 Edition of the Code of Civil Procedure states that, with P.L. 2-56, the Probate Code added §§ 1193-1195 dealing with the Establishment of the Fact of Death and would, therefore, appear to supersede §§ 1398-1399 of the CCP.

Title 15 of this Code, Estates and Probate, includes § 3209-§ 3122 on the subject of Establishing the Fact of Death, and procedures therefor. Therefore, this Compiler will omit Title IX of Part III of the CCP (§§ 1398 and 1399) because they have been repealed by implication, having been replaced by sections dealing totally but differently with the same subject.

Title X of Part III of the CCP (Uniform Reciprocal Enforcement of Support Act) (URESAs) is now found, in amended form, in 10 GCA Chapter 2, Article 8. Due to a transfer of functions from the Dept. of Public Health to the Attorney General’s Office, the URESA law will be found henceforth in 5 GCA Chapter 34.

**ARTICLE 1  
PROTECTION FROM ABUSE**

**2022 NOTE:** In light of the enactment of Article 2 by P.L. 36-100 (June 15, 2022), the existing provisions in Chapter 40 were designated under a new Article 1, pursuant to the authority of 1 GCA § 1606.

- § 40101. Definitions.
- § 40102. Jurisdiction.
- § 40103. Commencement of Proceedings.
- § 40104. Hearing.
- § 40105. Relief.
- § 40106. Notification.
- § 40107. Emergency Relief.
- § 40108. Procedure.
- § 40109. Contempt.

**§ 40101. Definitions.**

As used in this Chapter:

(a) *Abuse* means the occurrence of one (1) or more of the following acts between family or household members:

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(1) attempting to cause *or* intentionally *or* knowingly *or* recklessly causing bodily injury *or* serious bodily injury with *or* without a deadly weapon;

(2) placing by physical menace another in fear of imminent serious bodily injury; or

(3) sexually abusing minor children.

(b) *Adult* means any person eighteen (18) years of age *or* older.

(c) *Court* means the Superior Court.

(d) *Family or household members* means:

(1) Current *or* former spouses;

(2) Adults *or* minors who live together *or* who have lived together;

(3) Adults *or* minors who are dating *or* who have dated;

(4) Adults *or* minors who are engaged in *or* who have engaged in a sexual relationship;

(5) Adults *or* minors who are related by blood *or* adoption to the fourth (4<sup>th</sup>) degree of affinity;

(6) Adults *or* minors who are related *or* were formerly related by marriage;

(7) Persons who have a child in common; *or*

(8) Minor children of persons described in paragraphs (1) through (7) above.

**SOURCE:** CCP § 1450 added by P.L. 14-137:1. All source references in this Chapter will be to P.L. 14-135 unless otherwise noted. P.L. 14-137 added a new Title X-A to Part III of the CCP, which is this Chapter. Amended by P.L. 29-005:3 (Sept. 7, 2007).

**§ 40102. Jurisdiction.**

The Superior Court shall have jurisdiction over all proceedings under this Chapter. The plaintiff's right to relief under this Chapter shall not be affected by his or her leaving the residence or household to avoid further abuse.

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SOURCE: CCP § 1451.

**§ 40103. Commencement of Proceedings.**

(a) A person may seek relief under this Chapter for himself or herself or on behalf of another person if he or she has personal knowledge that such person has been abused, or any parent or adult household member may seek relief under this Chapter on behalf of minor children by filing a petition with the court alleging abuse by the defendant.

(b) Victim advocates, as defined in 6 GCA, Chapter 9, § 9102(a), shall be allowed to accompany the victim and confer with the victim, unless otherwise directed by the court. The court shall allow victim advocates to assist victims of abuse in the preparation of petitions for abuse protection orders. Communications between the petitioner and a victim advocate are protected as provided by 6 GCA Chapter 9, § 9102(b).

(c) A plaintiff or witness may request, without the need for a motion or good cause determination, that the court allow appearance by telephone, videoconference or by other two (2)-way electronic communication device. The court shall consider whether the safety or welfare of the plaintiff or witness would be threatened if testimony were required to be provided in person at a proceeding.

(d) No fees for filing or service of process may be charged by a public agency to petitioners seeking relief under this Chapter. Petitioners shall be provided the necessary number of certified copies at no cost.

SOURCE: CCP § 1452. Amended by P.L. 36-125:1 (Dec. 27, 2022).

**§ 40104. Hearing.**

(a) Within 10 days of the filing of a petition under this Chapter, a hearing shall be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall advise the defendant of his right to be represented by counsel.

(b) The court may enter such temporary orders as it deems necessary to protect the plaintiff or minor children from abuse upon good cause shown in an *ex parte* proceeding. Immediate and

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present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.

(c) If a hearing under subsection (a) is continued, the court may make or extend such temporary orders under subsection (b) as it deems necessary.

SOURCE: CCP § 1453.

**§ 40105. Relief.**

(a) The court shall be empowered to grant protection by appropriate order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children, which are not limited to, but may include:

(1) directing the defendant to refrain from abusing the plaintiff or minor children;

(2) granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties;

(3) when the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant to restoring possession to the plaintiff or by consent agreement allowing the defendant to provide suitable, alternative housing;

(4) when the plaintiff and defendant are spouses, or persons who have a minor child or children in common and who live together, and if necessary to maintain the safety and basic needs of the plaintiff or the minor child or children in common of the plaintiff and defendant, prohibiting the defendant from:

(A) taking any action that could result in the termination of any necessary utility services or services related to the family dwelling or the dwelling of the plaintiff; or

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(B) taking any action that could result in the cancellation, change of coverage, or change of beneficiary of any health, automobile, or homeowners insurance policy to the detriment of the plaintiff or the dependent child or children in common of the plaintiff and defendant;

(5) when the plaintiff and defendant are spouses, or persons who have a dependent child or children in common and who live together, and if necessary to maintain the safety and basic needs of the plaintiff or the minor child or children in common of the plaintiff and defendant, providing the plaintiff with temporary possession of any automobile, checkbook, documentation of health, automobile or homeowners insurance, a document needed for purposes of proving identity, a key, or other necessary specified personal effects; or directing the defendant to:

(A) make rent or mortgage payments on the family dwelling or the dwelling of the plaintiff and the minor child or children in common of the plaintiff and defendant;

(B) maintain utility services or other necessary services related to the family dwelling or the dwelling of the plaintiff and the minor child or children in common of the plaintiff and defendant;

(C) maintain all existing health, automobile, or homeowners insurance coverage without change in coverage or beneficiary designation; or

(D) provide financial support for the benefit of any minor child or children in common of the plaintiff and the defendant; provided, that the defendant has a legal duty to support such child or children and the ability to pay; or

(6) awarding temporary custody or establishing temporary visitation rights with regard to minor children.

(b) Any protection order or approved consent agreement *shall* be for a fixed period of time as the court deems appropriate.

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The court may amend its order or agreement at any time upon subsequent petition or motion filed by either party. These provisions are intended to provide victims of family violence immediate relief, and not intended to replace the legal processes for support, custody, or divorce.

(c) No order or agreement under this Chapter shall in any manner affect title to any real property.

**SOURCE:** CCP § 1454. Subsection (b) amended by P.L. 29-005:2 (Sept. 7, 2007). Subsection (b) amended by P.L. 31-109:2 (Sept. 30, 2011) effective (180) days from date of enactment pursuant to P.L. 31-109:4. Amended by P.L. 36-125:2 (Dec. 27, 2022).

**§ 40106. Notification.**

A copy of any order under this Chapter shall be issued to the plaintiff, the defendant and the Guam Police Department with appropriate jurisdiction to enforce the order or agreement.

**SOURCE:** CCP § 1455.

**§ 40107. Emergency Relief.**

(a) When the court closes for regular proceedings during the weekend or a holiday, a petition may be heard before the court in accordance with § 40105(a)(2) or (3) if the court deems it necessary to protect the plaintiff or minor children from abuse upon good cause shown in an *ex parte* proceeding. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.

(b) Any order issued under subsection (a) shall expire as of the resumption of business of the court at the beginning of the week or within seventy-two (72) hours, whichever occurs sooner, at which time the plaintiff may seek a temporary order from the court.

(c) Any order issued under this section and documentation in support thereof shall be immediately certified to the court. Such certification to the court shall have the effect of commencing proceedings under § 40103 of this Chapter and invoking the other provisions of this Chapter.

**SOURCE:** CCP § 1456.

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**§ 40108. Procedure.**

Any proceeding under this Chapter shall be in accordance with the Rules of Civil Procedure and shall be in addition to any other available civil or criminal remedies.

SOURCE: CCP § 1457.

**§ 40109. Contempt.**

Upon violation of a protection order or a court approved consent agreement, the Superior Court may hold the defendant in contempt.

SOURCE: CCP § 1458.

**CROSS-REFERENCE:** See 10 GCA Chapter 2 for the law establishing the *Child Protective Services and Adult Protective Services* units of the Department of Public Health and Social Services; and for requirements regarding the reporting of abuse.

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**ARTICLE 2**

**TRANSFER OR RELEASE OF VICTIMS FROM SHARED  
WIRELESS PLANS**

SOURCE: Entire article added by P.L. 36-100:2 (June 15, 2022), effective 30 calendar days after enactment.

§ 40201. Definitions.

§ 40202. Conviction Not Required.

§ 40203. Transfer or Release from Shared Wireless Plan.

**§ 40201. Definitions.**

For purposes of this Article:

(a) *Family violence* means any act or conduct described in 9 GCA, Chapter 30, § 30.10(a);

(b) *Sexual assault* means any act or conduct described in 9 GCA, Chapter 25, §§ 25.15, 25.20, 25.25, 25.30, and 25.35;

(c) *Stalking* means any act or conduct described in 9 GCA, Chapter 19, § 19.70;

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(d) *Wireless telecommunications service* shall have the same meaning as “commercial mobile radio service” as defined in 47 C.F.R. § 20.3;

(e) *Wireless telecommunications service provider* means a provider of wireless telecommunications service.

**§ 40202. Conviction Not Required.**

Nothing in § 40201 of this Article shall be construed to require a criminal conviction in order for an act or conduct to constitute family violence, sexual assault, or stalking.

**§ 40203. Transfer or Release from Shared Wireless Plan.**

(a) The court may issue an order requiring a wireless telecommunications service provider, without charge, penalty, or fee, to:

(1) transfer the billing authority and all rights to the wireless telephone number or numbers of a shared wireless plan to a victim of family violence, sexual assault or stalking if the victim is not the account holder of the shared wireless plan or to another person who shall serve as the account holder, as requested by or on behalf of the victim with the victim’s approval; or

(2) remove or release the victim of family violence, sexual assault, or stalking from a shared wireless plan and assign a substitute telephone number or numbers.

(b) The order issued pursuant to Subsection (a) of this Section shall be a separate order that is directed to the wireless telecommunications service provider. The order shall list the name and billing telephone number of the account holder, the name of the person to whom the telephone number or numbers will be transferred, and each telephone number to be transferred.

(c) A cause of action shall not lie against any wireless telecommunications service provider, its officers, employees, or agents for the actions taken that are related to the transfer of the billing authority and rights to the wireless telephone number or numbers in accordance with the terms of a court order issued pursuant to this Section.



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