

**5 GCA GOVERNMENT OPERATIONS
CH. 34 CHILD SUPPORT**

**CHAPTER 34
CHILD SUPPORT**

NOTE: The Compiler moved and renumbered this Chapter from 10 GCA Chapter 2, Article 8 to reflect changes both to the law and to the organization of the support services. The services performed pursuant to this Chapter are now performed by the Family Division of the Attorney General's Office.

2011 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Numbers" to "Lowercase Letters" in this chapter.

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- Article 3. New Hire Directory.

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§ 34101. Short Title, Legislative Intent and Severability.

(a) This Chapter may be filed as the Personal Responsibility and Self-Sufficiency Act of 1997.

(b) The Guam Legislature finds and declares that families that receive public assistance possess a sense of responsibility and accountability. The Guam Legislature further finds that a system of public assistance should:

- (1) encourage recipients to achieve their full potential by becoming gainfully employed, rather than remaining dependent of public assistance;
- (2) provide for the safety and protection of children; and
- (3) provide a system of support for persons in need.

(c) This Chapter shall be liberally construed to meet these ends of this § 34101 and to ensure compliance with the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

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(d) If any portion of this Chapter is declared invalid for any reason by any court of law, the remainder shall remain in effect.

SOURCE: Enacted by P.L. 18-017:1 (Oct. 5, 1985). Codified by Compiler. Repealed and reenacted by P.L. 24-129:2 (Feb. 16, 1998).

§ 34101.1. Support Orders of Minor Parents.

The child support enforcement agency may establish, enforce or modify a Court order for the support of a child against the parents of a non-custodial parent if:

(a) the custodial parent and non-custodial parent of the child are both less than eighteen (18) years of age; and

(b) the custodial parent of the child is a member of a household that is receiving benefits pursuant to the program to provide temporary assistance for needy families.

SOURCE: Added by P.L. 24-129:9 (Feb. 16, 1998).

2011 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with “Numbers” to “Lowercase Letters” in this chapter.

§ 34102. Definitions.

As used in this Chapter:

(a) Absent parent means any person who is responsible for the support of a child, who is absent from the household whether such person’s location is known or unknown, and who fails to provide for the support of such child.

(b) Department means the Department of Law, unless otherwise expressly provided or unless the context clearly requires otherwise.

(c) Dependent child means a person who has not reached the age of majority or who is eligible for assistance to dependent children.

(d) Public assistance or assistance means any money payments made by the Department which are paid to or for the benefit of any dependent child.

(e) Child Support Enforcement Agency means the Department of Law, Family Division.

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(f) Attorney General means the Attorney General of Guam or that persons designee within the Department of Law, Family Division.

SOURCE: GC § 9120.50. Added by P.L. 16-010 (May 22, 1987); Repealed and reenacted by P.L. 20-170:4 (May 15, 1990). Subsection (5) added by P.L. 24-129:10 (Feb. 16, 1998). Subsection (6) added by P.L. 26-148:29 (Sept. 27, 2002).

2011 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with “Numbers” to “Lowercase Letters” in this chapter.

§ 34103. Enforcement of Support Office Created.

There shall be in the Department a Child Support Enforcement Office which shall carry out the provisions of this Chapter. Reports and information obtained pursuant to this Chapter shall be confidential and shall only be made available as necessary to:

- (a) a duly authorized official of the Attorney General’s Office or the Child Support Enforcement Office in the course of his official duties; or
- (b) a court of competent jurisdiction.

Any person who wilfully releases or permits the release of any data and information pertinent to any child support case to persons or agencies not permitted by this Chapter shall be guilty of a misdemeanor.

SOURCE: GC § 9120.51, enacted by P.L. 16-010 (May 22, 1987). Subsection (a) amended by P.L. 18-017:2 (Oct. 5, 1985).

§ 34103.1 Power of Child Support Enforcement Office, Employees and Agents.

(a) In implementing programs under Title IV-D, the child support enforcement agency and the officials, employees and agents of such agency shall have administrative authority to perform the following functions without necessity of obtaining an order from any other judicial or administrative entity:

- (1) to conduct examinations;
- (2) to require by subpoena the attendance of witnesses and the production of books, records and papers;
- (3) to compensate witnesses and individuals producing books, records, including records maintained in automated data bases, and

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papers in amounts determined by the state agency, not to exceed actual reasonable costs incurred:

(4) to require genetic testing of appropriate individuals when necessary in disputed paternity cases, to determine the relationship of parent and child, and;

(A) pay the costs of such testing, subject to recoupment from the alleged father if paternity is established; and

(B) obtain additional testing in any case if an initial test result is contested, upon request and advance payment by the contestant;

(5) make application to the Superior Court of Guam, Hearing Division to compel participation in genetic testing, the attendance of witnesses, the production of books, records and papers, and the payment of fiscal sanctions imposed under this Chapter.

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

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

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

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

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

SOURCE: Added by P.L. 24-129:11(Feb. 15, 1998). Subsection (b) added by P.L. 26-148:2 (Sept. 27, 2002). Subsection (c) added by P.L. 26-148:3 (Sept. 27, 2002).

COMMENT: To subsection (b) Section 466(c) of the Social Security Act (SSA) requires that state (and Guam) Child Support Enforcement Agencies, and not the tribunal or court, be vested with the authority to pursue certain actions in support of establishing paternity and/or support orders, as well as enforcing and modifying the order, under what is known as "expedited administrative and judicial procedures". Prior 5 GCA § 34103.1 concerns certain expedited administrative procedures. Subsection (b) was added to spell out that the parties involved in these expedited administrative proceedings are afforded full procedural due process rights under

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these circumstances. Guam is committed to include these measures under § 2.12-2 of its State Plan.

To subsection (c) See above COMMENT. This subsection the full review of any administrative action taken.

§ 34103.2. Reporting to Credit Bureaus.

(a) In acting as the official agency in administering the child support program under Title IV-D, the child support enforcement office, directly or through agents and agencies, subject to Subsection (b) of this § 34103.2 may report periodically to consumer reporting agencies the name of any obligor who owes past due support, and the amount of past due support owed by the obligor.

(b) The child support enforcement agency may report under Subsection (a) of this § 34103.2, only after such an obligor has been provided notice and a reasonable opportunity to contest the accuracy of the statement of the name and amount of overdue support owed by the obligor.

(c) For purposes of this § 34103.2 consumer reporting agency means an agency that has furnished evidence, satisfactory to the Department, that the agency is a consumer reporting agency as defined in Subsection (f) of §603 of the Fair Credit Reporting Act, 15 U.S.C. 1681 a.

SOURCE: Added by P.L. 24-129:12 (Feb. 16, 1998).

§ 34103.3. Securing Assets to Satisfy Past Due Child Support.

In acting as the official agency in administering the child support program under Title IV-D, in cases in which there is past due child support, the child support enforcement agency may secure assets to satisfy the past due amount by issuing writs of execution. Those writs of execution may be used to secure or seize property including:

- (a) periodic or lump sum payments from:
 - (1) an agency administering unemployment compensation benefits, workers compensation benefits or other benefits; and
 - (2) judgments, settlements and gaming proceeds otherwise belonging to the obligor, or payable upon the obligor's demand;
- (b) assets of the obligor held in financial institutions; and

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(c) public and private retirement funds.

SOURCE: Added by P.L. 24-129:13 (Feb. 16, 1998).

§ 34104. Dependent Child; Absent Parent.

(a) When a custodial parent or person entitled to spousal support is accepted for welfare or food stamp assistance, and the Department of Public Health and Social Services determines that there is an absent parent or former spouse who is or should be paying support to the custodial parent, the Department of Public Health and Social Services shall give prompt notification to the Attorney General with such information as the Director of Public Health and Social Services and the Attorney shall agree is appropriate and necessary to collect support.

(b) In all cases in which the absent parent is in Guam and his or her whereabouts known, a representative of the Attorney General shall interview such parent as soon as possible after the notice is received or the matter is otherwise received by the Attorney General for action. The Attorney General's office shall determine such parent's ability to support his or her children, attempt to reach a stipulated settlement so that the parent can comply with his or her obligation to support his or her children, discuss his or her parental responsibilities and explore the possibility of the resumption of a parental relationship with the children. Failure to conduct such an interview shall not be a defense in any court action to collect or set support.

SOURCE: GC § 9120.52 added by P.L. 16-010 (May 22, 1987). Subsection (d)(7) added by P.L. 18-017:3 (Oct. 5, 1985); repealed and reenacted by P.L. 20-170:5 (May 15, 1990).

§ 34105. Action.

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

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

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

(3) to establish paternity;

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

(5) to obtain orders of wage assignment;

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

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

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

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

(b) If an action is commenced after the lapse of more than six (6) years from the birth of the child, an amount shall not be awarded for expenses or support under (a)(7)-(8) of this Section that accrued before the date on which the action was commenced unless one (1) or more of the following circumstances exists:

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

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

(c) If a family ceases to receive public assistance under the Title IV-A program of Guam, the Child Support Enforcement Agency shall provide appropriate notice to the family that the Child Support Enforcement Agency will continue to provide services to the family, unless the family provides written notice of request not to do so, and the Child Support Enforcement Agency shall continue to provide such services, subject to the same conditions, and on the same basis as in the case of other individuals to whom services are provided, except that an application or other request to continue services shall not be required of such family.

SOURCE: GC § 9120.53 added by P.L. 16-010 (May 22, 1987); Subsection (d) added as (e) by P.L. 18-017:15 (Oct. 5, 1985) and renumbered by Compiler. Subsection (a) repealed/reenacted by P.L. 22-099:2 (May 31, 1994). Amended by P.L. 24-116:7 (Dec. 11, 1997). Subsection (c) added by P.L. 24-129:14 (Feb. 16, 1998). Subsection (a) amended by P.L. 26-148:4 (Sept. 27, 2002).

COURT DECISIONS: SUPER.CT. 1983 Guam's plan allows the Department of Public Health and Social Services to recover the amount expended by the Department or the amount due under a court order, whichever is less. *DPH&SS and Gogo v. Gogo*, Domestic Case #715-78. [The section has been amended since this case to change the amount of recovery.]

COMMENT: to Subsection (a) SSA § 466(a)(15) requires payment of support by the obligor pursuant to a plan approved by the tribunal or state agency, or is the obligor is obligated to such a plan and is not working but not incapacitated, then the obligor must participate in "work activities" as defined by SSA § 407(d). This includes job searches which the Guam court regularly orders, but the SSA requires that this be specified in law. Guam is committed to this through § 2.12-15 of the State Plan

§ 34105.1. Entry of Attorney General by Court Motion.

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The court may, upon its own motion or the motion of a party, order the entry of the Attorney General in any case where the interests of a minor child so require.

SOURCE: Added by P.L. 22-099:17 (Mar. 31, 1994).

§ 34105.2. Termination of Child Support.

(a) An order of current child support entered by a Court or tribunal shall terminate by operation of law when the child on whose behalf the support is owed marries, becomes emancipated, or the latter of reaching the age of majority or graduating from high school or equivalent, but not to exceed nineteen (19) years of age; provided that the child remains in the custody and care of, and resides with, the custodial parent, or for those who are identified as special education students, who continue with their high school program, the order shall extend through the age of twenty-two (22). If the child is still in high school and is due to turn eighteen (18) years of age, or twenty-one (21) years of age for special education students, during the school year, the custodial parent shall inform the Office of the Attorney General's Child Support Enforcement Division no later than thirty (30) calendar days prior to the child's eighteenth (18th) birthday, or twenty-first (21st) birthday for special education students. The custodial parent shall at that time submit to the Office of Attorney General's Child Support Enforcement Division an official certification of enrollment/attendance evidencing his or her child's active status as a student. In the event the child is no longer enrolled as a student, voluntarily or involuntarily, the custodial parent shall, within ten (10) business days, notify the Office of the Attorney General's Child Support Enforcement Division, upon which time child support shall terminate.

(b) The provisions contained in § 34105.2 (a) shall not apply to child support cases where a different arrangement has been agreed to by the custodial parent and non-custodial parent, extending child support obligations beyond eighteen (18) years of age, and which agreements have been duly approved by a Court or tribunal.

SOURCE: Added by P.L. 31-271:2 (Dec. 26, 2012).

2012 NOTE: P.L. 31-271:3, provides:

“Section 3. Effective Date and Implementation. This Act shall take effect upon enactment and apply prospectively. The Office of the Attorney General's Child Enforcement Division, within thirty (30) calendar days following the passage of this Act, shall inform

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custodial parents and non-custodial concerning the provisions of this Act. The Office of the Attorney General's Child Enforcement Division shall further coordinate with the Superintendent of Education, or his authorized designee, to ensure appropriate support is extended by the Guam Department of Education concerning attendance certifications required in Section 2 of this Act.

In the event a child turns eighteen (18) years of age within thirty (30) calendar days following enactment of this Act, the custodial parent shall submit the information required by Section 2 of this Act to the Office of the Attorney General's Child Support Enforcement Division within ten (10) business days following notification by that Office concerning the passage of this Act."

§ 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 non-custodial parent; the legal basis of the duty of support; the amount of public assistance, if any, expended by the 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; and any other pertinent information, including, but not limited to, social security numbers, drivers license numbers, telephone numbers, and addresses of parties, and their employers names, addresses and telephone numbers.

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

(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 Attorney General pursuant to this Section shall be provided to the court upon request.

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

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(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 DPHSS 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 DPHSS 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.

SOURCE: GC § 9120.54 added by P.L. 16-010 (May 22, 1987); Subsections (a) and (b) repealed and reenacted by P.L. 18-017:5 and 6 (Oct. 5, 1985). Subsection (f) added by P.L. 22-099:3 (Mar. 31, 1994). Repealed and reenacted by P.L. 26-148:15 (Sept. 27, 2002).

§ 34107. Judgments 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 judgments it may enforce, compromise or settle the judgments with the consent of the Attorney General in any way considered to be in the public interest. Any proceeds of judgments or settlements shall be deposited in the General Fund.

(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.

SOURCE: GC § 9120.55 enacted by P.L. 16-010 (May 22, 1987). Repealed and reenacted by P.L. 26-148:13 (Sept. 27, 2002).

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NOTE: Subsection (b) was formerly the first sentence in 10 GCA § 2820 as added by P.L. 18-017:18 (Oct. 5, 1985).

§ 34108. Child Support Enforcement for the Non-Public Assistance.

(a) Upon application, the Department shall make services relating to the establishment of paternity and in enforcement of child obligations described in this Chapter available to persons not receiving aid to dependent children.

(b) The Department may require payment of an application fee for such services and the deductions for cost in excess of such fee from amounts collected on behalf of such persons.

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

SOURCE: GC § 9120.56 enacted by P.L. 16-010 (May 22, 1987).

§ 34109. Authority of Attorney General to Request Information; 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 Chapter, and such information shall be provided upon request:

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

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

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

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

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

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

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

(G) the Department of Labor;

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

(I) the Guam Housing and Urban Renewal Authority;

(J) the Department of Corrections;

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

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

(2) The records of any public utilities, internet and long distance services or carriers, and community antenna or cable television companies with regard to their customers names, addresses, and employers names and addresses;

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

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

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

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SOURCE: GC § 9120.57 enacted by P.L. 16-010 (May 22, 1987). Subsection (a) repealed and reenacted by P.L. 18-017:7 (Oct. 5, 1985). Repealed and reenacted by P.L. 26-148:5 (Sept. 27, 2002).

COMMENT: to P.L. 26-148 action Under SSA § 466(c) concerning expedited procedures, subsections (1)(B), (1)(C) and (1)(D) require better and prompt access by the state agencies to records which will assist the state agency in carrying out its duties. These may be records of public agencies, public and private utilities, financial institutions and all employers. Guam is committed to this requirement in § 2.12-2 of the State Plan. Prior 5 GCA § 34109 adequately addressed the former federal requirements, but not the new ones.

§ 34109.1. Agreements with Financial Institutions.

(a) The Attorney General shall enter into agreements with financial institutions doing business on Guam to coordinate the development and operation of a system for matching data, using automated exchanges or data to the maximum extent feasible. As used in this Section, financial institution means any banking institution or trust company, savings and loan institution, credit union, finance company, insurance company or related corporation, partnership, benefit association, foundation, safe deposit company, money market mutual fund or similar entity authorized to do business on Guam.

(b) A financial institution doing business on Guam shall:

(1) cooperate with the Attorney General, or a designated representative, in carrying out Subsection (a) of this § 34109.1;

(2) use the system to provide to the support enforcement agency for each calendar quarter the name, address of record, social security number or other number assigned for taxpayer identification, and other identifying information for each responsible parent who maintains an account at the financial institution, as identified by the support enforcement agency by name and social security number of other number assigned for taxpayer identification;

(3) surrender to the support enforcement agency such assets held by the financial institution on behalf of the responsible parent as may be required by the support enforcement agency in response to the receipt from the support enforcement agency of a;

(A) notification of a lien against a responsible parent which arises pursuant to an order of a tribunal of Guam or is entitled to full faith and credit pursuant to this Chapter or the Uniform Interstate Family Support Act;

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(B) notice of attachment pursuant to this Chapter.

(4) except as otherwise provided in Subsection (b)(3) of this § 34109.1, in response to the receipt of notice of a lien which is entitled to full faith and credit pursuant to this Chapter or the Uniform Interstate Family Support Act or notice of a levy on such a lien, encumber or surrender, as the case may be, such assets held by the financial institution on behalf of the responsible parent as may be required to enforce the lien. A financial institution doing business on Guam which receives from the support enforcement agency a notice of lien, notice of attachment or notice of levy on a lien is not required to encumber or surrender any assets received by the financial institution on behalf of the responsible parent after the financial institution received the notice of lien, notice of attachment or notice of levy on a lien.

(c) A financial institution may not be held liable in any civil or criminal action for:

(1) any disclosure of information to the support enforcement agency pursuant to this § 34109.1;

(2) encumbering or surrendering any assets held by the financial institution pursuant to this § 34109.1;

(3) any other action taken in good faith to comply with the requirements of this § 34109.1.

(d) If a court issues an order to return to a responsible parent any assets surrendered by a financial institution pursuant to Subsection (b) of this § 34109.1, the support enforcement agency is not liable to the responsible parent for any of those assets that have been provided to another person or agency in accordance with the order for payment of support

SOURCE: Added by P.L. 24-129:15 (Feb. 16, 1998). Subsection (a) amended by P.L. 26-148:7 (Sept. 27, 2002) to conform to federal SSA § 466(a)(17), and § 469A(d) relating to the definition of “financial institutions”.

§ 34109.2 Social Security Numbers Required for Certain License Applications.

Each licensing board, commission, or other entity which issues professional, occupational, motor vehicle, recreational, or marriage licenses or certificates shall record the Social Security number of an applicant for such license or certificate on the application and shall enter

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this information in its database in order to aid the Attorney General in locating parents or their assets, or in enforcing child support orders.

SOURCE: Added by P.L. 26-148:8 (Sept. 27, 2002) to conform with SSA § 466(a)(13) and also the new federal privacy laws, which this section does not offend.

§ 34110. Unauthorized Disclosure of Information; Civil Damages.

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

(b) The individual whose financial records were disclosed may bring a civil action in the District Court of Guam pursuant to 42 U.S.C. §669a. Any public officer or employee who knowingly or negligently discloses a financial record for purposes other than as authorized is liable for

(1) the costs and attorneys fees of the action, and

(2) damages in an amount equal to the greater of

(A) the sum of One Thousand Dollars (\$1,000.00) for each act of unauthorized disclosure, or

(B) the sum of the actual damages sustained by reason of the unauthorized disclosure plus punitive damages if the disclosure is willful or is a result of gross negligence; except that no liability shall be found where there is a good faith disclosure of a financial record, but erroneous interpretation of Subsection (a) of this § 34110 with regard to financial records.

(c) The provisions of § 34110 are in addition to any other remedies available.

SOURCE: GC § 9120.58 enacted by P.L. 16-010 (May 22, 1987), as repealed and reenacted by P.L. 18-017:8 (Oct. 5, 1985); Repealed and reenacted by P.L. 20-170:6 (May 15, 1990). Repealed and reenacted by P.L. 26-148:6 (Sept. 27, 2002).

COMMENT: to P.L. 26-148 action SSA § 469A provides for a federal remedy against unauthorized disclosure by financial institutions in federal courts. This

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former section is now fully covered by § 34109, above, and it has been repealed and this new matter inserted.

2013 NOTE: Pursuant to the authority granted by 1 GCA § 1606, numbers and/or letters in subsection (b)(2) were altered to adhere to the Compiler's alpha-numeric scheme.

§ 34111. Collection, Accounting and Disbursement of Funds.

(a) The Department shall cooperate with the Department of Public Health and Social Services, the Department of Administration, and the Superior Court of Guam in the collection, accounting for and disbursement of funds paid pursuant to any order of support issued by the Superior Court or any other state having jurisdiction when such order affects the Department of Public Health and Social Services, a welfare recipient or a person receiving assistance pursuant to the provisions of this subchapter.

(b) With respect to any funds paid to the Department of Public Health and Social Services, pursuant to any order of support, which have remained unclaimed for not less than two (2) years after diligent effort to locate the person entitled to such funds, the Superior Court may enter an order decreeing:

(1) That the funds be returned to the person who paid them pursuant to the order of support; or

(2) That the funds be deposited with the Treasurer of Guam in an interest-bearing account for a period of five (5) years, after which time, if still unclaimed, the funds shall escheat to the government of Guam.

(c) If a claimant proves to the satisfaction of the Superior Court within five (5) years after the deposit of funds under paragraph (2) of subsection (b) of this section that he or she has a just and legal claim to any part of the funds, the Court may order that repayment shall be made to such claimant. The clerk of the court shall issue a certificate under the official seal of the court embodying the terms and provisions of the order and transmit the certificate to the Office of the Treasurer with whom the funds were deposited.

(d) The Department shall ascertain the ability of an absent parent to support or contribute to the support of his or her dependents, in accordance with a child support formula accepted and approved by the Attorney General.

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SOURCE: GC § 9120.59 enacted by P.L. 16-010 (May 22, 1987); Repealed and reenacted by P.L. 20-170:7 (May 15, 1990).

§ 34111.1. Transfers from the Child Support Enforcement Account Prohibited.

The Child Support Enforcement Account (Account) under the administration of the Department of Administration is hereby established separate and apart from all other funds and accounts of the government of Guam. The Account *shall* be used in accordance with Chapters 34 and 35 of Title 5, Guam Code Annotated, and Title IV-D of the Social Security Act, for purposes related to the payment of child support. These funds *shall not* be transferred or used without the written approval of the Attorney General of Guam.

SOURCE: Added by P.L. 33-185:XIII:25 (Sept. 10, 2016), amended by P.L. 33-240:2 (Jan. 27, 2017).

§ 34112. Parent Locator Service.

The Department shall operate a parent locator service for the location of any parent who has abandoned or deserted any child, irrespective of whether such child is or is not receiving aid to families with dependent children. The records of such service shall contain as far as is known:

- (a) the full and true name of each parent together with any known alias and last known address;
- (b) date and place of birth;
- (c) social security number;
- (d) employment history;
- (e) military records, if any;
- (f) police records, if any; and
- (g) whether a proceeding has been instituted against such parent to enforce the laws respecting the desertion, abandonment and support of his or her children and a statement as to the current status and result of any such proceeding and any further information that may be of assistance in locating such persons.

SOURCE: GC § 9120.60 enacted by P.L. 16-010 (May 22, 1987).

§ 34113. Authority to Contract for Services.

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In order to fulfill its obligations imposed by this Chapter, the Child Support Enforcement Office may contract with any government of Guam agency, any federal government agency or any other person to aid in collecting or to collect support obligations.

SOURCE: Added by P.L. 18-017:9 (Oct. 5, 1985).

§ 34114. Late Charges.

(a) Effective January 1, 2008, interest shall accrue at the rate of six percent (6%) per annum on a non-custodial parent's unpaid balance as of the last day of the previous month. Said balance shall be the arrearage shown on the records at the Office of the Attorney General unless the arrearage is corrected by the court. Payments on arrearages shall be applied to interest first, then to principal.

(b) When a support order fails to state the date upon which support payments are to commence, the payments shall commence on the first day of the month next following the effective date of the order, and, if payments are monthly, on the first day of each month thereafter.

(c) Unless an order of the court specifies some other effective date, the effective date of an order of support shall be the date that the court makes a ruling from the bench if the court makes an oral order at a hearing, or the date the order is entered whichever is earlier. If a support order is based on a stipulation of the parties, the effective date shall be the date the stipulation is first filed or presented to the court, either orally or in writing, unless the stipulation as approved contains some other effective date.

(d) Unless a support order provides for specific due dates, monthly support payments shall be due and payable on the first day of every month. If support is by order to be paid on a date certain, it shall become delinquent if not paid on or before that date. If a due date falls on a Saturday, Sunday, or legal Guam holiday, the payment shall become due on the regular business day next following.

SOURCE: Added by P.L. 18-017:10 (Oct. 5, 1985); Repealed and reenacted by P.L. 20-170:8 (May 15, 1990). Subsection (a) repealed and reenacted by P.L. 24-116:8; amended by P.L. 29-019:VI:57 (Sept. 29, 2007).

§ 34115. Fee.

The Department of Law shall represent those persons not within the Federal Aid for Dependent Children Program for the cost of one cent

(1☉), which cost the government of Guam will absorb on behalf of such persons.

SOURCE: Added by P.L. 18-017:11 (Oct. 5, 1985); Repealed and reenacted by P.L. 20-170:9 (May 15, 1990). Repealed and reenacted by P.L. 22-099:4 (Mar. 31, 1994).

§ 34116. Inability to Pay No Defense.

Inability to pay because of unreasonable obligations voluntarily incurred shall not constitute a defense in contempt proceedings for violation of the duty to support.

SOURCE: Added by P.L. 18-017:12 (Oct. 5, 1985).

§ 34116.1. Defense to Support if Income Different.

As to cases filed after the effective date of this section, in any action for paternity, guardianship, child support, divorce, or separate maintenance, in which there is a minor child or minor children and for which there is no previous order (temporary or permanent) for child support, the court may in such cases enter an order for child support effective nunc pro tunc to the date of the filing of the complaint but not exceeding one (1) year; provided, however, that reasonable provisions shall be made for payment of such amounts, if paid as ordered. The obligor may raise as a defense to such entry nunc pro tunc that the obligors income between the time of filing the complaint and the date of the order was such that during such period the obligor would have been unable to pay such child support or could only have reasonably paid reduced child support during such period.

SOURCE: Added by P.L. 22-099:16 (Mar. 31, 1994).

§ 34117. Assignment of Support Rights by Applicants for Public Assistance.

An applicant for assistance under this Chapter is deemed to have assigned to the Department at the time of application all rights to child support from any other person the applicant may have on his own behalf or on behalf of any child for whom application is made. The assignment:

(a) is effective as to both current and accrued child support obligations;

(b) takes effect upon a determination that the applicant is eligible for assistance under this Chapter; and

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(c) terminates when an applicant ceases to receive public assistance except with respect to the amount of any unpaid support obligation accrued under the assignment.

Whenever an applicant to whom a duty to support is owed applies for assistance, the Department shall give him notice that these support rights will be assigned. If the applicant accepts support in money or in kind from the obligor after applying for public assistance, the applicant shall reimburse the Department for the amount of support so received. The Child Support Enforcement Office has authority to enforce this right on the Department's behalf.

SOURCE: Added by P.L. 18-017:13 (Oct. 5, 1985).

2011 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Numbers" to "Lowercase Letters" in this chapter.

§ 34118. Payment Schedule.

(a) The Attorney General shall adopt, pursuant to the Administrative Adjudication Law, a schedule of normal child support payments to be paid by a non-custodial parent to a custodial parent pursuant to Subsections (c)(1) and (c)(2) of this Section, to be updated every four (4) years.

(b) The presumptions set forth in subsections (c)(1) and (c)(2) of this section shall be considered by the court in setting child support. The court shall enter appropriate written or specific findings on the record if it finds that it would be unjust or inappropriate to apply the presumptions created by such subsections (c)(1) and (c)(2), which presumptions will thereby be sufficiently rebutted.

(c) The payment schedule shall be prepared as follows:

(1) The schedule shall include tables based on the income of the parties which establish the amounts of support which each parent can afford to contribute to the care of the minor children. The amounts established by that part of the schedule which is based upon the earnings of the parents shall operate as a rebuttable presumption as to the amounts of support which each parent can afford to contribute towards the care of the minor child or children.

(2) The schedule shall include tables showing the average dollar amounts necessary to raise from one (1) to at least fifteen (15) children irrespective of the income of the parents, based on accepted

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welfare guidelines and statistics, food stamp guidelines, average costs of raising children nationwide taking into account Guam's income levels and the island's unique culture, expenses, and the needs of children raised on Guam, and such other matters as the Attorney General deems relevant. The figures set out in such tables shall operate as a rebuttable presumption as to the needs of the child or children.

(d) The schedule shall take into account the income of each parent and the necessary and reasonable expenses and debts of each of the parties, the needs of the child or children, the needs of the custodial parent as to assistance in caring for the minor child or children, and the ability of each parent to pay. In any court hearing, such criteria shall be applied by the court in conjunction with the rebuttable presumptions arising from the schedules in arriving at an equitable child support order. The schedule shall contain definitions as to income, expenses, and other matters so that the schedule is clear and understandable so as to minimize litigation over child support payments.

(e) Until a new schedule is promulgated as required by this section, the schedule previously promulgated by the Director of Public Health and Social Services shall continue to be used in the manner specified by Public Law 18-17 as a guideline in cases where the court deems it relevant.

(f) Either parent of a child for whom child support has been previously ordered may petition the Superior Court of Guam, Judicial Hearings Division or the Child Support Enforcement Division not more than once every three (3) years for review and adjustment of the child support order without having to show a change of circumstances. Either parent may petition the Superior Court of Guam, Judicial Hearings Division or the Child Support Enforcement Division for review and adjustment of the child support order more than once in any three (3) year period if the second or a subsequent request is supported by proof of a substantial or material change of circumstances. For the purposes of child support, substantial or material change in circumstances is defined as an increase or decrease in one (1) parent's salary which results in an increase or decrease between the old child support amount and the new child support amount by at least ten percent (10%) for a period of six (6) months. If the custodial parent is receiving or has received assistance from a government program funded by Title IV, Part A of the Social Security Act, the Child Support Enforcement Division shall review every

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three (3) years from the effective date of the Order, and, if appropriate, shall file in Superior Court either a motion or stipulation to adjust the order. Regardless of whether the custodial parent is receiving or has received public assistance, the Child Support Enforcement Division shall review every three (3) years from the effective date of the Order, and, if warranted, shall file in Superior Court a motion or stipulation to adjust an order by applying the Child Support Enforcement Division guidelines or by applying a Cost of Living Adjustment to the order. The Child Support Enforcement Division may use automated methods to identify orders to review and adjust pursuant hereto.

SOURCE: Added by P.L. 18-017:14 (Oct. 5, 1985); Repealed and reenacted by P.L. 20-170:10 (May 15, 1990). Subsection (a) amended by P.L. 28-063:3 (June 30, 2005). Subsection (f) added by P.L. 24-129:16 (Feb. 16, 1998); amended by P.L. 29-019:VI:49 (Sept. 29, 2007); P.L. 29-113:VI:35 (Sept. 30, 2008); P.L. 30-016:4 (Apr. 17, 2009).

§ 34118.1. Electronic Remittance Required.

(a) Establishment of Electronic Transfer Mechanisms. The Office of the Attorney General Child Support Enforcement Division (Division) shall establish electronic funds transfer (EFT) and electronic data interchange mechanisms to allow for the electronic remittance of child support payments or withholdings from employers and from payroll processors.

(b) Development of Agreement; Distribution of Information; Required Transmittals; Prohibited Withdrawal. The Child Support Enforcement Division shall develop an agreement stipulating the necessary conditions required for an employer to electronically remit child support payments or withholdings of their employee to the Division, including by use of any payroll processing service; such agreement shall be signed by the Child Support Enforcement Division Director, or his designee, and the employer. The Division shall make available all necessary information to each employer with ten (10) or more full-time employees, of which at least one (1) employee has child support payment obligations, detailing options for electronic funds transfers and the process by which one must comply in order to establish such payment arrangements.

If an employer makes payment by way of electronic transfer of money pursuant to this Subsection, the employer shall transmit separately the name and appropriate identification number, if any, of

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each obligor for whom payment is made, and the amount transmitted for that obligor.

Once an employer is registered as a mandatory participant in the EFT program, the employer may not withdraw from the program.

(c) Processing Fees. The Child Support Enforcement Division is hereby authorized to implement a fee of up to Three Dollars (\$3.00) per transaction. This fee shall be paid by the employer and shall not be deducted from the employee's pay or withholdings amount. No other fee shall be assessed for this transaction.

(d) Penalties. Employers found to be in violation of this Section shall be liable for assessment of treble damages by the court, in the same manner as treble damages are assessed pursuant to § 34132 of this Chapter.

SOURCE: Added by P.L. 31-095:2 (Sept. 30, 2011).

§ 34119. Establishment of Paternity.

(a) Proceedings to establish the paternity of the child may be instituted during the pregnancy of the mother or after the birth of the child, but not after the child becomes eighteen (18) years of age.

(b) Complaint:

(1) Paternity proceedings are commenced by the filing of a complaint that includes the social security number of each party, if known, and that alleges a woman is the mother of a child or children conceived out of wedlock and that the defendant is the biological father of the child or children.

(2) Maternity proceedings are commenced by the filing of a complaint that includes the social security number of each party, if known, and that alleges that a woman is the mother of a child or children conceived out of wedlock and that the woman as defendant, is the mother of the child or children.

(c) The procedures upon the filing of the complaint shall be as in other civil cases. In addition to the above procedures, the following alternate procedure shall be permissible:

(1) at the time of the filing of the summons and complaint, a notice of hearing shall issue directing the defendant to be present before the court;

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(2) the answer may be made orally by the defendant at that time by personal appearance before the judge and by oral presentation of the pleading; and

(3) if the answer is made admitting the elements of the complaint, a judgment may be entered forthwith or the Court may set a subsequent time for a hearing and establishment of the terms of the judgment.

(d) If a defendant denies paternity, the determination of paternity shall be made to the Court without a jury. The trial shall be a civil trial. The standard of proof shall be by clear and convincing evidence.

(e) When the paternity of a child is denied under this § 34119, the child and all other parties shall be ordered by the Court to submit to genetic testing upon request of any party to the action if the request is accompanied by a sworn statement by the party alleging paternity and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties or denying paternity and setting forth facts establishing a reasonable possibility of the non-existence of sexual contact between the parties.

(f) The genetic testing conducted shall be of a type generally acknowledged as reliable by accreditation bodies and shall be performed by a laboratory approved by an accreditation body designated by the United States Secretary of Health and Human Services.

(g) In any trial brought under this Chapter, a report of the facts and results of genetic tests ordered by the Court or by the child support enforcement agency under this Chapter shall be admissible in evidence by affidavit of the person whose name is signed to the report, attesting to the procedures followed in obtaining the report. A report of the facts and results of genetic tests shall be admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made. The genetic testing performed shall be of a type generally acknowledged as reliable by accreditation bodies designated by the United States Secretary of Health and Human Services. An alleged parent or party to the paternity action who objects to the admission of the report concerning the genetic test results must file a motion no later than twenty (20) days after receiving a copy of the report and shall show good cause as to why a witness is necessary to lay the foundation for the admission of the report as evidence. The Court may, sua sponte, or at a hearing on the motion, determine whether a

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witness shall be required to lay the foundation for the admission of the report as evidence. The right to call witnesses to rebut the report is reserved to all parties.

(h) Should an original test result be contested, the Court shall order further genetic testing with payment of the testing to be advanced and paid for by the contesting party.

(i) If the results of the genetic testing indicate that the likelihood of the alleged father is ninety-five percent (95%) or greater, the alleged father is conclusively presumed to be the parent of the child.

(j) If the alleged father contests paternity and is found to be the father, he shall reimburse the Department for the genetic test costs of all the parties.

(k) If the mother denies the paternity of the alleged father and he is found to be the father, the mother shall reimburse the Department for the genetic test costs for all the parties.

SOURCE: Added by P.L. 18-017:16 (Oct. 5, 1985); Repealed and reenacted by P.L. 20-170:11 (May 15, 1990). Repealed and reenacted by P.L. 22-099:5 (Mar. 31, 1994). Repealed and reenacted by P.L. 23-139:1 (Jan. 2, 1997). Repealed and reenacted by P.L. 24-129:3 (Feb. 16, 1998).

§ 34119.1. Judgment of Paternity.

Full faith and credit. Any judgment of paternity, whether established through a voluntary acknowledgment process, or established by a court or administrative entity of this territory, or any other state or jurisdiction, is entitled to full faith and credit in this territory.

SOURCE: Added by P.L. 23-139:2 (Jan. 2, 1997).

§ 34119.2. Temporary Support Orders.

(a) The Court shall issue a temporary order of support pending a judicial determination of paternity if

(1) genetic testing affixes at least a ninety-five percent (95%) probability of paternity;

(2) a notarized statement is signed by both parties acknowledging paternity or separate substantially similar notarized statements are signed acknowledging paternity and filed with the Department of Public Health and Social Services, Vital Statistics; or

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(3) there is other clear and convincing evidence as determined by a court.

(b) A temporary order of support does not prejudice the rights of a person and child that are adjudicated at subsequent hearings in the proceeding.

(c) A temporary order of support may be revoked or modified and terminates when the final support order is entered or when the petition for support is dismissed.

SOURCE: Added by P.L. 24-129:17 (Feb. 16, 1998).

§ 34119.3. Voluntary Acknowledgment of Paternity.

(a) The Department or the parent of a child born out of wedlock may establish paternity by filing with the Department of Public Health and Social Services, Vital Statistics, either a notarized statement that contains the social security numbers of both parents that is signed by both parents and that acknowledges paternity or a separate but substantially similar notarized statement by the father that acknowledges paternity. A voluntary acknowledgement of paternity may also be executed pursuant to Title 6 GCA § 4308, provided that it is witnessed by an employee of the Guam Memorial Hospital Authority or an employee of the Department of Public Health and Social Services, Vital Statistics, who is not related to either parent. A voluntary acknowledgement of paternity shall constitute a legal finding of paternity and has the same force and effect as a Superior Court judgment, subject to the right of any signatory to rescind the acknowledgment within sixty (60) days of his signature or before the initiation of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, to which the signatory is a party, whichever is sooner.

(b) Following the sixty (60) day period referred to in Subsection (a) of this § 34119.3, a signed voluntary acknowledgment of paternity may be challenged in Court only on the basis of fraud, duress or material mistake of fact, with the burden of proof on the challenger. The legal responsibilities of any signatory arising from the acknowledgment including child support obligations shall not be suspended during the challenge except for good cause shown.

(c) The courts and office of child support hearings of Guam shall give full faith and credit to affidavits for the voluntary acknowledgment

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of paternity signed in any state or territory and these affidavits shall constitute legal findings of paternity, subject to Subsections (a) and (b) of this § 34119.3.

(d) Judicial and administrative hearings shall not be required or permitted to ratify an unchallenged acknowledgment of paternity.

SOURCE: Added by P.L. 24-129:18 (Feb. 16, 1998). Subsection (a) amended by P.L. 29-019:VI:48 (Sept. 29, 2007).

§ 34119.4. Hospital Paternity.

(a) Upon the birth of a child to an unmarried woman, and prior to discharge, any hospital, physician health care provider, midwife or nurse who assists in the birth of the child shall:

(1) provide an opportunity for the child's mother and alleged father to sign, under oath, an affidavit of paternity; and

(2) provide to the mother and to the alleged father, any necessary oral information, and also written information furnished by the Department which describes, among other things, the rights and responsibilities of parentage; the benefits of having the child's paternity established; the alleged father's legal rights and responsibilities, including his right to request genetic testing; the child's right to received child support; that a signed affidavit of paternity creates a rebuttable presumption of paternity; that a signed affidavit of paternity allows the establishment of a support obligation without requiring further proceedings to establish paternity; and, that completion of the affidavit of paternity is voluntary and is not required of either the mother or the alleged father.

(b) The fully completed, signed and notarized original affidavit of paternity, if obtained, shall be forwarded to the Department of Public Health and Social Services, Vital Statistics within seven (7) days following the birth of the child.

SOURCE: Added by P.L. 24-129:19 (Feb. 16, 1998).

§ 34119.5. Evidence of Bills.

In any action to establish paternity, medical bills related to childbirth, pregnancy or confinement expenses, and genetic testing bills shall be admissible as evidence without foundation testimony, and shall constitute prima facie evidence of the amounts incurred.

SOURCE: Added by P.L. 24-129:20 (Feb. 16, 1998).

§ 34119.6. Genetic Testing.

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

SOURCE: Added by P.L. 26-148:9 (Sept. 27, 2002) as required by SSA § 46(c)(1)(a), which requires the state to order such testing on its own.

§ 34120. Failure to Provide Visitation Rights a Separate Issue.

The existence or enforcement of a duty of support owed by an absent parent for the support of a minor child shall not be affected by a failure or refusal by the custodial parent to implement any rights as to custody or visitation granted by a court to the absent parent.

SOURCE: Added by P.L. 18-017:17 (Oct. 5, 1985).

§ 34121. Vacation or Modification of Orders.

The provisions 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 an 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.

SOURCE: Added by P.L. 18-017:18 (Oct. 5, 1985) as 10 GCA § 2820. Codified to this section by the Compiler. Repealed and reenacted by P.L. 26-148:12 (Sept. 27, 2002).

NOTE: The first sentence of this section, as added by P.L. 18-017:18 (Oct. 5, 1985) was repealed and added by P.L. 26-148:13 as § 30107(b) of this chapter.

§ 34121.1. Information to be Included in Support Orders.

(a) Every Court order for the support of a child issued or modified in Guam on or after the effective date of this legislation, must include:

(1) the names, dates of birth and social security numbers of the parents of the child;

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(2) the name, date of birth and social security number of the child; and

(3) the case identification number assigned by the Court.

(b) Within ten (10) days after a tribunal issues an order for the support of a child, each party to the cause of action shall file with the Court that issued the order and the Department of Law, Family Division:

(1) the party's social security number;

(2) the party's residential and mailing addresses;

(3) the party's telephone number or a contact number;

(4) the party's motor vehicle operator's license number; and

(5) the name, address and telephone number of each party's employer. Each party shall update the information filed with the Court and the Department of Law, Family Division pursuant to this § 34121.1 within ten (10) days after that information becomes inaccurate.

SOURCE: Added by P.L. 24-129:21 (Feb. 16, 1998).

§ 34122. Presumption of and Service of Process in Child Support Cases.

Whenever notice and service of process is required for child support enforcement proceedings subsequent to the issuance of a paternity or child support order, upon a showing that diligent effort has been made to ascertain the location of a party, notice and service of process shall be presumed to be satisfied upon delivery of written notice to the most recent residential or employer address on file with the Guam child support case registry.

SOURCE: Added by P.L. 20-170:12 (May 15, 1990). Amended by P.L. 22-099:6 (Mar. 31, 1994). Repealed and reenacted by P.L. 24-129:4 (Feb. 16, 1998).

§ 34123. Registration of Foreign Support Orders.

If the duty of support is based upon a foreign support order, the obligee and the Department have the additional remedies provided in the following Subsections:

(a) The obligee or the Department may register the foreign support order in the Superior Court of Guam in the manner, with the effect, and for the purposes herein provided.

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(b) The Clerk of the Superior Court shall maintain a Registry of Foreign Support Orders in which he shall file foreign support orders.

(c) An obligee or the Department, when seeking to register a foreign support order in the Superior Court, shall transmit to the Clerk of the Superior Court

(1) three certified copies of the order with all modifications thereof,

(2) one copy of the Reciprocal Enforcement of Support Act of the state in which the order was made,

(3) a statement verified and signed by the obligee or the Department, showing the mailing address of the obligee, the last known place of residence and mailing address of the absent parent, the amount of support remaining unpaid, a description and the location of any property of the absent parent available upon execution, and a list of the states in which the order is registered.

Upon receipt of these documents the Clerk of the Superior Court shall file them in the Registry of Foreign Support Orders. The filing constitutes registration under this Act.

(d) Promptly upon registration, the Clerk of the Superior Court shall send by certified or registered mail to the absent parent at the address given a notice of the registration with a copy of the registered support order and the mailing address of the obligee. He shall notify the Attorney General of this action and the Attorney General shall proceed diligently to enforce the order.

SOURCE: Added by P.L. 18-017:19 (Oct. 5, 1985).

§ 34124. Effect of Registration; Enforcement Procedure.

(a) Upon registration, the registered foreign support order shall be treated in the same manner as a support order issued by the Superior Court. It shall have the same effect and be subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this Territory and may be enforced and satisfied in like manner, except as otherwise provided in this Chapter.

(b) The obligor has twenty (20) days after mailing of the notice of the registration in which to petition the court to vacate the registration or

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for other relief. If he does not so petition the court, the registered support order is confirmed.

(c) At the hearing to enforce the registered court order the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support order as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this Territory may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support order that is required for a support order of this Territory.

SOURCE: Added by P.L. 18-017:20 (Oct. 5, 1985).

§ 34125. Mandatory Attachment of Territorial Income Tax Refund.

Mandatory attachment of territorial income tax refunds and other sums owed by the government of Guam to an obligor.

(a) Whenever an obligor is delinquent in the amount of One Hundred Fifty Dollars (\$150) or more, the Department shall send written notice through the United States mail, to the obligor that withholding will be made from any tax refund or other sums of money which the government of Guam or the Government of the United States owes him or her. The written notice shall inform the obligor that he or she may request a hearing with the Department on the issue of such delinquency and inform him or her about the time, place and manner of doing so. If the obligor's income tax refund is attached, the notice shall also inform him or her that, if he or she filed a joint return for the year in question, the person who filed with him or her may request a hearing under subsection (d) of this section. The obligor shall have ten (10) days after receiving the notice to either satisfy the delinquency in full or to request a hearing. If the delinquency is satisfied in full, the Child Support Enforcement Office shall make no further attempt to attach the obligor's tax refund. The request for a hearing must be in writing on a form to be prescribed by the Attorney General. The hearing shall be conducted in accordance with Chapter Two of the Administrative

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Adjudication Law. The only two (2) issues which may be contested or resolved at the hearing shall be whether the obligor is delinquent and the amount of the delinquency.

(b) If the delinquency is not paid in full or if no hearing is requested within ten (10) days after the obligor receives notice, the Department shall immediately notify the Director of Revenue and Taxation (the "Director") of the delinquency. If a hearing is held, the Department shall notify the Director of the existence of any delinquency within ten (10) days after the Attorney General approves the hearing decision.

(c) Whenever the Department notifies the Director under subsection (b) of this section, it shall also inform him or her that the obligor has been given the opportunity to contest the validity of the charge of delinquency and its amount in an administrative proceeding and shall provide him or her with the obligor's social security number and address. The Director shall then determine if the obligor is owed any money by the government of Guam as part of a tax refund. If there is such a debt, the Director shall withhold from the obligor an amount equal to the amount of support owed and pay it over to the appropriate government agency which is receiving support payments on behalf of obligees, and shall simultaneously notify the obligor by certified mail, return receipt requested, that this amount is being withheld.

(d) If a delinquent obligor filed a joint return for the year in question and an amount is withheld from his or her tax refund, the Director when the notice is given the obligor pursuant to subsection (c) of this section, shall also notify by certified mail, return receipt requested, the person who filed with the obligor and advise that person that he or she must file with the Department of Revenue and Taxation a claim for his or her share of the refund, which notice shall contain information about the time, place and manner of doing so. The claim must be filed on a form prescribed by the Director, who shall examine the claim and pay the claimant his or her proper share of the income tax refund. Any claimant dissatisfied with the amount of his or her award may request a hearing with the Department of Revenue and Taxation within ten (10) days after being notified of the award, which hearing shall be conducted according to Chapter 2 of the Administrative Adjudication Law.

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SOURCE: Added by P.L. 18-017:21 (Oct. 5, 1985); Repealed and reenacted by P.L. 20-170:13 (May 15, 1990).

§ 34126. When Bond is Required.

(a) If an obligor fails to make three (3) or more child support payments as required by court order, the court, in addition to other remedies provided by this Chapter, may order the person to either execute a bond, subject to the approval of the court, or to pay security to the court, the bond or security to be conditioned on the payment of past due and future child support payments as required by the court order. If the obligor fails to make a child support payment as required by the court order after having executed a bond or having paid security to the court, the court shall collect on the bond or may seize all or a portion of the security. An amount collected from a bond or an amount of forfeited security shall be paid to the obligee for the benefit of the child and shall be applied to the outstanding indebtedness of the absent parent. However, the application of bond or security funds to the obligor's indebtedness is not a defense in a contempt of court proceeding.

(b) The court may order an obligor to execute a bond or pay security to the court only upon motion of the obligee and after notice is given to the obligor by certified mail, return receipt requested. The obligor shall have ten (10) days in which to request a hearing. If there is no request for a hearing, the court may order him to execute the bond or pay the security. The only defenses which may be raised at the hearing are mistakes of fact concerning the order, existence of arrearages and their amount.

SOURCE: Added by P.L. 18-017:22 (Oct. 5, 1985).

§ 34127. Advertising.

The Child Support Enforcement Office shall, from time to time, advertise itself and the services it provides to the public by such means and through such media as it chooses.

SOURCE: Added by P.L. 18-017:23 (Oct. 5, 1985).

§ 34128. Health Care Insurance Mandatory.

(a) Whenever the Superior Court of Guam issues or modifies an order concerning [child support], including provisions for child support in divorce decrees, the court shall include health care insurance coverage for the child or children as part of both parents obligation of support for health insurance if health care insurance is available at a reasonable cost.

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The court shall determine the burden of obligation of support for health insurance from either or from both parents in the best interest of the child or children. Any order for health care insurance shall be enforceable against the custodial parent and/or the non-custodial parent.

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

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

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

- (1) temporary assistance for needy families or foster care or medicaid assistance; or
- (2) services which are provided upon application of a custodial parent to the Department.

(e) An employer who has received an NMSN must transfer it to the plan administrator of the appropriate group health plan within twenty (20) business days of the date of the NMSN. If an employer who has received an NMSN fails to transfer the NMSN to the plan administrator of the appropriate group health plan within the twenty (20) business-day period, then in a proceeding to enforce the transfer, the court may impose a fine on the employer of up to Two Hundred Dollars (\$200.00) per calendar day that the employer has failed to transfer the NMSN to the

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plan administrator to be paid to the General Fund, except that if the employer is found to have willfully refused to comply with transferring the NMSN, then the court may assess up to Five Hundred Dollars (\$500.00) per calendar day. A business day as used in this Subsection (e) shall mean a day on which the government of Guam is open for business.

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

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

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

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

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

(k) If the obligors employer has more than one (1) option for health care coverage available, the Child Support Enforcement Office must promptly select one (1) of the options after consulting with the custodial parent.

SOURCE: Added by P.L. 18-017:24 (Oct. 5, 1985). Repealed and reenacted by P.L. 24-129:5 (Feb. 16, 1998). Repealed and reenacted by P.L. 26-148:27 (Sept. 27, 2002) to update federal requirements and to institute the federal requirement that a national for be used to collect healthcare information from the obligor. Subsection (a) amended by P.L. 29-113:VI:34 (Sept. 30, 2008).

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsection (d) beginning with "Uppercase Letters" to "Numbers."

§ 34129. Order Reduced to Judgment.

Whenever the Superior Court makes a finding that an obligor is delinquent in child support payments and incorporates that finding in an order, the order shall be automatically reduced to judgment. That judgment shall be entered and enforceable in accordance with Chapters VII and IX of the Code of Civil Procedure as well as any other relevant parts thereof. The Child Support Enforcement Office may enforce such a judgment on behalf of any child it is otherwise authorized to represent or on behalf of the Department of Public Health and Social Services if there has been an assignment of support rights.

SOURCE: Added by P.L. 18-017:25 (Oct. 5, 1985).

2013 NOTE: The Compiler, pursuant to the authority granted by 1 GCA § 1606, combined the two paragraphs in this section.

§ 34130. Reports to Consumer Reporting Agencies.

Whenever an obligor is delinquent on child support payments in the amount of One Thousand Dollars (\$1000) or more, the Child Support Enforcement Office shall release information pertaining to that obligor, including the size of the delinquency, to any consumer reporting agency which requests such information. When the amount of such a delinquency is less than One Thousand Dollars (\$1,000), the Child

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Support Enforcement Office has the option of releasing such information to a consumer reporting agency that requests it.

(a) Before the Child Support Enforcement Office releases this information, it must inform the obligor that it is about to release the information, inform him of the amount of the delinquency and that he has ten (10) days in which to make an appointment with the head of the Child Support Enforcement Office to contest the accuracy of the information about to be released. If no meeting is requested within ten (10) days the Child Support Enforcement Office shall release the information. If a meeting is requested and held, the head of the Child Support Enforcement Office shall state his findings about the accuracy of the information in writing, retain a copy of his findings and send another copy to the absent parent.

(b) Whenever the Child Support Enforcement Office releases this information to a consumer reporting agency, it may charge that agency a fee of Five Dollars (\$5.00) for doing so.

(c) As used in this Section, the term consumer reporting agency means any person or business which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

SOURCE: Added P.L. 18-017:26 (Oct. 5, 1985).

§ 34131. Definitions.

As used in this Chapter:

(a) wages means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(b) employer means any person, including the federal government or any department, agency, or instrumentality of the government of Guam, and

(c) person shall include, but is not limited to, individuals, partnerships, joint ventures, and corporations.

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SOURCE: Added by P.L. 18-017:27 (Oct. 5, 1985).

§ 34132. Mandatory Wage Assignment.

In any proceeding where the court has ordered either or both parents to pay any amount of child support which is being enforced, the court shall order either or both parents to assign to the appropriate government agency which is receiving support payments on behalf of obligees that portion of the salary or wages of that parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the obligor upon whom a copy of the order is served. Such a wage assignment shall be a continuing lien and levy against the wages of the obligor. Failure of the order to include the duration of the assignment or any notice or any of the other provisions required by this section or any other section of this subchapter shall not affect the validity of the assignment nor shall it excuse any person from compliance with the order. Any employer who is found to have willfully refused to comply with a valid wage assignment may be assessed treble damages by the court, to be paid over to the obligee.

(a) The order shall contain:

- (1) The title and docket number of the suit;
- (2) The name of the obligee;
- (3) The amount and duration of the assignment;

(4) A requirement that the assigned amount should be paid to the appropriate government agency which is receiving support payments on behalf of obligees, with the mailing address for mailing such payments;

(5) A requirement that the assignor promptly notify the obligee or the Child Support Enforcement Office of any change in circumstance affecting the assignment, and any other information deemed necessary by the court;

(6) A requirement that the obligor shall give a copy of the order of mandatory wage assignment to his or her employer within five (5) days of receipt, and to every subsequent employer within five (5) days of commencing employment;

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(7) Such information or orders as may be required by court rules;

(8) Such other information, such as social security number and other information, as may make enforcement of the order easier; and

(9) Such other information or orders as the court may deem appropriate.

(b) The assignment becomes effective the first pay period after receipt of the order by the employer. The order shall be issued and served as in other civil cases, including by certified or registered mail, return receipt requested, or may be served upon an employer by telefacsimile machine. The wage assignment order must be served on any known income payor within five (5) business days after the issuer is informed of such an income payor. After the effective date, the assigned amount shall be remitted to the appropriate government agency which is receiving support payments on behalf of obligees on each regular due date or pay date. For orders entered after the effective date of this Section, the employer may not deduct or impose any administrative fee on the assigned amount. The government of Guam may not deduct or impose any administrative fees for any wage assignment ordered between or after the effective date of this Section.

(c) In any case where the employer has actual knowledge of the wage assignment, he or she shall be required to comply therewith notwithstanding lack of service, and shall have an affirmative duty to investigate the terms of the assignment if certain details are unknown.

(d) Hearings under this title may be joined with any other hearing in any suit affecting the parent-child relationship if the Department is not representing a party.

(e) When a wage assignment concerning child support is ordered against any assignor, it shall take precedence over any other legal process against the same wages.

(f) Standard terms, conditions, orders and notices may be printed on the back of an order of wage assignment, or may be on a separate printed sheet attached to the order.

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(g) When appropriate, the court may issue a mandatory assignment of any other regular source of money which an obligor may be receiving (such as, but not limited to lease payments, interest income, payments received on a promissory note, retirement pay, annuities, etc.) in the same manner as wages are assigned.

(h) An employer who complies with an income withholding order that is regular on its face is not subject to civil liability to any individual or agency for conduct in compliance with the order

SOURCE: Added by P.L. 18-017:28 (Oct. 5, 1985); Repealed and reenacted by P.L. 20-170:14 (May 15, 1990). Subsection (b) amended by P.L. 24-129:8 (Feb. 16, 1998). Subsection (h) added by P.L. 24-129.22 (Feb. 16, 1998).

§ 34132.1. Lien for Past Due Child Support.

(a) When a past due child support obligation is at least six (6) times the monthly child support obligation and the obligor is not current in a court-established plan to repay the past due support, a lien shall arise on the obligor's real and personal property and the obligor's real and personal property shall be subject to foreclosures, distraint, seizure and sale, or order to withhold and deliver which shall be executed in accordance with Guam law. No judicial notice or hearing shall be necessary prior to creation of such a lien.

(b) The child support enforcement agency may establish a lien on personal property as provided below:

(1) Vehicle lien:

(A) In the case of a vehicle, the Department may establish a lien by filing a notice of lien with the Director of the Department of Revenue and Taxation. The notice must be in a form prescribed by the Director of the Department of Revenue and Taxation and contain a description of the vehicle, the name and last known address of the obligor, and any other information required by the Director of the Department of Revenue and Taxation. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last known address.

(B) Upon filing of the notice of lien in accordance with this § 34132.1, the Director of the Department of Revenue and Taxation shall demand in writing the surrender of the certifi-

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cate of title from the obligor or a superior lien holder for the purpose of recording the lien on the certificate of title. Upon receipt of the certificate of title, the Director of the Department of Revenue and Taxation shall record the fact of the lien and the identity of the lien holder on the certificate of title and deliver the certificate of title to that lien holder. If the obligor or superior lien holder fails to surrender the certificate of title within fifteen (15) days after the written demand by the Director of the Department of Revenue and Taxation shall notify the child support enforcement agency seeking the lien.

(C) Upon receipt of notice from the Director of the Department Revenue and Taxation that the obligor or superior lien holder has not responded to the demand for surrender of a title certificate, the child support enforcement agency may obtain an order from a court of competent jurisdiction requiring the certificate of title to be delivered to the Court so that a lien may be properly recorded.

(D) No fee may be charged for services provided under this § 34132.1.

(E) The Director of the Department of Revenue and Taxation may determine a certificate of title to have been fraudulently procured if endorsed by a previous owner who, at the time the endorsement was made:

(i) was an obligor who owed past due child support;
and

(ii) had been served with a copy of a notice of lien filed under this § 34132.1 with respect to the vehicle described on that certificate of title.

(F) A lien under this § 34132.1 is perfected when the lien is recorded on the certificate of title.

(2) Vessel lien:

(A) In the case of a vessel, the child support enforcement agency may establish a lien by filing a notice of lien with the Department of Revenue and Taxation if the vessel is estimated to be at least twice the cost of establishing the lien. The notice must contain a description of the make, model designation and

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serial number of the vessel, including its identification or registration number, if any, and the name, social security number and last known address of the obligor. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last known address.

(B) Upon filing of the notice of lien in accordance with this § 34132.1, the notice of lien must be indexed by the Director of the Department of Revenue and Taxation.

(C) A lien under this § 34132.1 is perfected when notice of the lien is filed with the Director of the Department of Revenue and Taxation.

(D) The child support enforcement agency may file an amendment to correct the social security number of the obligor to correct the spelling of the obligor's name, or to correct or change the address of the obligor.

(3) Account lien:

(A) In the case of an account maintained in a financial institution, the child support enforcement agency may establish a lien on the account by serving a notice of lien upon the financial institution in the manner provided for service of a summons in a civil action. The notice must be in a form prescribed by the child support enforcement agency and contain the name, social security number, or other taxpayer identification number and last known address of the obligor, the amount of past due support for which a lien is claimed, and any other information required by the public authority. The notice of lien must state that the child support obligation is past due and that a copy of the notice of lien has been served on the obligor by first-class mail at the obligor's last known address.

(B) Upon service of the notice of lien on a financial institution in accordance with this § 34132.1, the lien attaches to accounts of the obligor maintained in the financial institution, except to the extent necessary to satisfy any right of set off which exists in connection with an account, payment orders that were made by the obligor before the financial institution was served with notice of lien, or other obligations of the

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obligor based upon written agreements or instruments made or issued by the obligor before the financial institution was served with notice of lien.

(c) The child support enforcement agency may establish a lien on real property as provided:

(1) the child support order or judgment or administrative proceedings in Guam or any state or territory shall be recorded in the Department of Land Management. The recordation of the order or judgment in the Department of Land Management shall be deemed, at such time, for all purposes and without any further action, to procure a lien on land on file with the Department of Land Management;

(2) the lien shall become effective immediately upon recordation of the child support order and shall attach to all interests in real or personal property then owned or subsequently acquired by the obligor.

(d) The child support enforcement agency shall not be charged a fee for recording or filing of the liens provided for in this § 34132.1 or for the recording or filing of any releases requested in conjunction with the lien.

(e) Any lien provided for by this § 34132.1 shall take priority over any lien subsequently acquired or recorded except tax liens.

(f) Upon payment of all past due child support obligations, the child support enforcement agency shall provide, within a reasonable time, an appropriate satisfaction or release of a lien arising under this Chapter.

(g) Immunity from Liability. A person in possession of, or obligated with respect to, property, who, upon demand of the child support enforcement agency, surrenders the property or discharges the obligation to the child support enforcement agency, is immune from any liability to the obligor or other person arising from the surrender of payment. The Court shall award reasonable attorney's fees and costs against any person who commences an action that is subsequently dismissed by reason of the immunity granted by this § 34132.1.

(h) Action to Enforce Lien. In any case in which there has been a refusal or neglect to pay child support, the child support enforcement agency, in addition to any other relief, may file an action in any court of

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competent jurisdiction to enforce a lien under this Chapter. The filing of an action does not preclude the child support enforcement agency from pursuit of any other means of enforcement available under Guam, state or Federal law.

(i) **Persons Aggrieved.** A person aggrieved by an action taken by the child support enforcement agency to enforce a lien under this Chapter may seek review of the child support enforcement agency's actions in the court that issued the child support order claimed to be past due.

(j) **Full Faith and Credit.** A lien arising in another state, under a law of that state implementing the provisions of 42 U.S.C. § 666(a)(4)(A), is entitled to full faith and credit when the party seeking to enforce that lien records or serves the lien documents in the manner provided under this Chapter. No judicial notice or hearing is required prior to recording or service of the lien documents.

SOURCE: Added by P.L. 24-129:23 (Feb. 16, 1998).

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections (b)(3)(C-J) beginning with "Uppercase Letters" to "Lowercase Letters" in this section.

§ 34132.2. Other Enforcement Remedies.

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

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

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

(B) judgments, settlements, and lotteries;

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

(3) attachments of public and private retirement funds;

(4) imposing liens and, in appropriate cases, forcing sales 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 of Guam and is final.

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(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.

SOURCE: Added by P.L. 26-148:14 (Sept. 27, 2002) to complete federal requirements for obtaining child support money.

§ 34133. Mandatory Wage Assignments: Additional Provisions.

It is the intent of the Legislature that all child support be paid by mandatory wage assignments. Therefore:

(a) To the greatest extent possible, support orders shall provide mandatory wage assignments to cover support obligations.

(b) (1) In all cases in which child support is at issue, all court orders shall provide for mandatory wage assignment, except as provided in subparagraph (c) of this section, and the only basis for contesting such an assignment shall be a mistake of fact in the amount of current or overdue support or the identity of the alleged parent.

(c) Exceptions to mandatory wage assignments:

(1) If either the obligor or obligee of such a proposed wage assignment demonstrates and the court finds that there is good cause not to require a wage assignment, the court may refrain from making a wage assignment in which case the court must make a written determination that it would be in the best interest of the child or children not to require a wage assignment and there is proof of timely payment of previously court-ordered support.

(2) In any case where there are minor children, the court must have a hearing on any interlocutory divorce decree or order establishing or modifying custody of minor children if the order provides for less than One Hundred Dollars (\$100) support per minor child per month or if the order does not provide for mandatory wage assignment. Because of the declared public policy in favor of adequate child support paid by mandatory wage assignment, in any case, including guardianships, involving minor children where a party is requesting less than One Hundred Dollars (\$100) per minor

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child per month as child support, or where a party is requesting a support order without mandatory wage withholding, the Family Division of the Department of Law shall be given three (3) days notice of the proposed hearing, and the Attorney General may appear at such hearing, call and cross-examine witnesses, present evidence, make recommendations and may request a continuance for purposes of conducting discovery.

(3) The notice to the Family Division shall include a copy of the Child Support Worksheet of the party giving notice and any other information available to the party sending the notice reasonably necessary to reach an informed decision on the issues presented. Failure to give such adequate notice shall be cause for that part of the judgment, decree, or other order relating to child support to be set aside or modified nunc pro tunc on application of the Attorney General within one (1) year. In such case, the court shall enquire as to the reason that the order or decree does not provide for child support of at least One Hundred Dollars (\$100) per minor child per month, or the reason that the mandatory wage assignment is not appropriate, and the court shall satisfy itself by a preponderance of the evidence that child support of less than One Hundred Dollars (\$100) per minor child per month is appropriate or that an order of mandatory wage assignment is not appropriate, before issuing the decree or order, and shall set forth such reasons in the written decree or order.

(4) All current orders for child support, spousal support, and family support issued by the Superior Court of Guam for specific amounts of periodic payments to the obligee are hereby declared subject to enforcement by wage assignment. In addition to all others remedies available, a wage assignment may be issued prospectively by the Superior Court as to future payments only upon ex parte applications of the obligee. When an ex parte order of assignment is issued, the obligor shall be entitled to a hearing on a motion to vacate any such order as having been issued in error, on three (3) working days notice to the obligee. An ex parte order of wage assignment shall be issued without being res judicata effect as to other issues.

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(5) The court may, on its own motion, make an order of mandatory wage assignment a part of any support order the court issues, even if not requested by the parties.

(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 of Guam, 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 Hearings Division may review an order of the Attorney General for income withholding de novo as an appeal therefrom.

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

SOURCE: Added by P.L. 20-170:15 (May 15, 1990). Repealed and reenacted by P.L. 22-099:8 (Mar. 31, 1994). Subsection (c)(6) added by P.L. 26-148:10 (Sept. 27, 2002) as required by SSA § 466(c).

§ 34133.1. Implementation of Income Withholding.

(a) For cases being enforced under the Title IV-D state plan or for those parents applying to the agency for services, the income of an obligor who receives income on a periodic basis and who has a support obligation imposed by support order issued or modified in the state before October 1, 1996, if not otherwise subject to withholding, shall become subject to withholding as provided in Subsection (b) of this § 34133.1, if arrearages or delinquency occur, without the need for a judicial or administrative hearing. The agency shall implement such withholding without the necessity of any application in the case of a child with respect to whom services are already being provided under Title IV-D and shall implement on the basis of an application for service

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under Title IV-D in the case of any other child on whose behalf a support order has been issued or modified. In either case, such withholding shall occur without the need for any amendment to the support order involved or for any further action by the Court or other entity which issued such order.

(b) If the obligor who receives income on a periodic basis becomes delinquent in making payments under a support order in an amount at least equal to the support payable for one (1) month, the agency shall issue an income withholding order that shall include an amount to be paid for current support and towards the delinquency. The order shall be served upon the employer by certified mail or personal service, or transmitted to the employer through electronic means.

(c) Upon the agency's receipt of an interstate income withholding request from another jurisdiction, the agency may issue an income withholding order to collect the support imposed upon the obligor by a support order issued or modified by the other state. The order shall include an amount adequate to ensure that past due payments and payments which will become due in the future under the terms of the support order will be paid.

(d) A copy of the order shall be filed in the office of the Clerk of the Superior Court of Guam.

(e) Upon sending the order of income withholding to the employer, the agency shall send a notice of the withholding to each obligor to whom Subsections (b) and (c) of this § 34133.1 apply. The notice shall inform the obligor:

- (1) that the withholding has commenced;
- (2) that the obligor may request a hearing in writing within fourteen (14) days of the date of the notice;
- (3) that, unless the obligor files a written request for a hearing within fourteen (14) days of the date of the notice, the money received from the income withholding will be distributed to the custodial parent or, in an interstate case, the obligee in the other jurisdiction, or in the case where the children are receiving public assistance, to the state;
- (4) that the only defense to income withholding is mistake of fact; and

(5) of the information that was provided to the employer with respect to the employer's duties.

(f) The agency may delay the distribution of collections toward arrearages or delinquency until the resolution of any requested hearing regarding the arrearages or delinquency.

(g) Upon timely receipt of a request for a hearing from the obligor, the agency shall refer the matter to the Superior Court of Guam, Hearings Division, and a hearing shall be conducted

SOURCE: Added by P.L. 24-129:24 (Feb. 15, 1998).

§ 34134. Termination of Wage Assignment.

(a) No wage assignment ordered pursuant to this law by the Superior Court shall terminate until one of the following events occurs:

- (1) the death of the assignor;
- (2) the death of the child on whose behalf the support is owed;
- (3) the child on whose behalf the support is owed reaches his majority or marries or becomes emancipated;
- (4) the absent parent is given custody of the child under a valid court order;
- (5) the adoption by a third party of the child on whose behalf support is owed;
- (6) the court order expires under its own terms;
- (7) the obligor's employment terminates.

(b) Whenever a wage assignment terminates because of one of these events, it shall terminate in regard to child support payments due in the future only and assignor shall remain liable for any payments that accrue before that event occurs.

SOURCE: Added by P.L. 18-017:29 (Oct. 5, 1985).

2017 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 34135. Multiple Wage Assignments.

The Superior Court shall consider the fact that an employee may be subject to two (2) or more wage assignments. Upon motion by any party to the suit or suits, or upon the court's own motion, the court may, after

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notice to all parties to the suit or suits and a hearing, modify an assignment under this section for the purpose of making new assignments for the benefit of all of the children whom the assignor is obligated to support, in order to avoid assigning more than the maximum amount permitted under these Sections.

SOURCE: Added by P.L. 18-017:30 (Oct. 5, 1985).

§ 34136. Spousal Support.

The Department may seek spousal support on behalf of any custodial spouse who is eligible for its assistance under the terms of § 454(6) of the Social Security Act by using the wage assignment procedures and other Guam laws dealing with child support. It may also charge any such spouse who is not receiving public assistance a flat fee of Twenty-five Dollars (\$25) when it initiates proceedings on behalf of such spouse.

SOURCE: Added by P.L. 18-017:31 (Oct. 5, 1985).

§ 34137. Maximum Amount Assignable.

(a) Whenever the Superior Court orders a wage assignment under this Title, the maximum amount it may order assigned for spousal and child support taken together is sixty percent (60%) of the obligor's disposable earnings. However, if the obligor is also supporting either a spouse or dependent child who is not the subject of a support order, the Superior Court may order that up to fifty percent (50%) of the obligor's disposable earnings be assigned.

(b) If the obligor is liable for arrearages, the Superior Court still may not order him to pay more than the maximum amount allowed by this Section.

SOURCE: Added by P.L. 18-017:32 (Oct. 5, 1985).

§ 34138. Employer's Rights and Responsibilities.

(a) An employer who is properly served with an order of wage assignment under this Chapter, and who fails to comply with that order within the time specified, shall be liable to the obligee of that order in the amount not paid in compliance with that order as well as for court costs and reasonable attorney's fees. Every such order so served must contain notice of this provision. An employer who is served with two (2) or more such orders concerning the same employee shall comply with all such orders, giving priority to the one first served upon him. However, he may also combine all the payments he is supposed to make to the Clerk of the

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Superior Court in one payment for each of his pay periods provided that he designates how much money is being paid on behalf of each employee and in regard to which cases.

(b) No employer may terminate, refuse to hire or otherwise discipline any employee because that employees earnings are subject to a wage assignment. An employer who violates this section may be required to make full restitution to the aggrieved employee, including reinstatement, back pay, all benefits accruing on account of employment, as well as court costs and reasonable attorneys fees incurred by the employee in an action to enforce his rights under this section. Also, in a proceeding to enforce the aggrieved employees rights, the court may impose a fine of up to Two Hundred Dollars (\$200) on the employer, payable to the General Fund. Every order of wage assignment must contain notice of this provision.

(c) No employer may be forced to change his pay schedules or the dates on which he pays his employees pursuant to a court ordered wage assignment pursuant to this Chapter. However, every employer must be ordered to comply with the order within fifteen (15) days after he is served with the order.

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

SOURCE: Added by P.L. 18-017:33 (Oct. 5, 1985). Subsection (b) amended by P.L. 22-099:7 (Mar. 31, 1994). Subsection (d) repealed/reenacted by P.L. 26-148:28 (Sept. 27, 2002) to add reference to medical support.

§ 34139. Income Withholding: Generally.

(a) Purpose. The purpose of this Chapter is to enhance the enforcement of support obligations by providing a quick and effective procedure for the withholding of income derived in this jurisdiction to enforce support orders of other jurisdictions and by requiring that income withholding to enforce the support orders of this jurisdiction be sought in other jurisdictions. These sections shall be liberally construed to effect that purpose.

(b) Definitions. As used in this Chapter:

(1) Support order means any order, decree, or judgment for the support, or for the payment of arrearages on such support, of a child, spouse, or former spouse issued by a court or agency of another

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jurisdiction, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection or otherwise.

(2) Jurisdiction means any state or political subdivision, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands or any foreign country with whom the United States has reciprocity.

(3) Child means any child, whether above or below the age of majority, with respect to whom a support order exists.

(4) Obligor means any person required to make payments under the terms of a support order for a child, spouse or former spouse.

(5) Obligee means any person or entity which is entitled to receive support under an order of support and shall include an agency of another jurisdiction to which a person has assigned his or her right to support.

(6) Income means wages as defined in Section 2829 of this Chapter.

(7) Employer means any payor of income.

(8) Income derived in this jurisdiction means any income, the payor of which is subject to the jurisdiction of this territory for the purpose of imposing and enforcing income withholding under § 34131 through § 34138 of this Chapter.

(9) Court or agency, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this Chapter, including the issuance and enforcement of support orders.

(c) Remedies Additional to Those Now Existing. The remedies provided in § 34140 through § 34149 of this Chapter are in addition to, and not in substitution for, any other remedy otherwise available to enforce a support order of this or of another jurisdiction. Relief under this Act shall not be denied, delayed, or otherwise affected because of the availability of other remedies, nor shall relief under any other statute be delayed or denied because of the availability of this remedy.

SOURCE: Added by P.L. 18-017:34 (Oct. 5, 1985).

§ 34140. Initiation of Wage Assignments and Cooperation with Other Jurisdictions.

On behalf of any client for whom the Department is already providing services, or on application of a resident of Guam, or on behalf of the Department if the obligee has assigned support rights, the Department shall promptly request the agency of another jurisdiction in which the obligor of a support order derives income to enter that order for the purpose of obtaining income withholding against such income. The Department shall compile and transmit promptly to the agency of the other jurisdiction all documentation required there to enter a support order for this purpose. The Department shall also transmit immediately to the agency of the other jurisdiction a certified copy of any subsequent modifications of the support order.

SOURCE: Added by P.L. 18-017:35 (Oct. 5, 1985).

§ 34141. Responsibilities for Entering a Support Order of Another Jurisdiction for Purposes of Income Withholding.

(a) Upon receiving a support order of another jurisdiction with the documentation specified in Subsection (b) of this Section from an agency of another jurisdiction, the Department shall file these documents with the Clerk of the Superior Court. The Clerk of the Superior Court shall accept the documents filed and such acceptance shall constitute registration of the support order under this Chapter.

(b) The following documentation is required for the registration of a support order of another jurisdiction:

- (1) a certified copy of the support order with all modifications;
- (2) a certified copy of an income withholding order or notice, if any, still in effect;
- (3) a copy of the portion of the income withholding statute of the jurisdiction which issued the support order which states the requirements for obtaining income withholding under the law of that jurisdiction;
- (4) either a sworn statement of the obligee or a certified statement of the agency of the arrearages and the assignment of support rights, if any;
- (5) a statement of;

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(A) the name, address, and social security number of the obligor, if known;

(B) the name and address of the obligor's employer or of any other source of income of the obligor derived in the territory of Guam against which income withholding is sought, if known;

(C) the name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.

(c) If the documentation received by the Department under Subsection (a) of this Section does not conform to the requirements of Subsection (b) of this Section, the Department shall remedy any defect which it can without the assistance of the requesting agency or person. If the Department is unable to make such corrections, it shall immediately notify the requesting agency, court or person of the necessary additions or corrections. In neither case shall the documentation be returned. The Department and the Superior Court shall accept the documentation required by Subsections (a) and (b) of this Section even if it is not in the usual form required by local rules, so long as the substantive requirements of these Subsections are met. Defects of form shall not constitute a valid defense.

(d) A support order entered under Subsection (a) of this Section shall be enforceable by income withholding against income derived on Guam in the manner and with the effect as set forth in § 34131 through § 34138 of this Chapter. Entry of the order shall not confer jurisdiction on the Superior Court of Guam for any purpose other than income withholding.

SOURCE: Added by P.L. 18-017:36 (Oct. 5, 1985).

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsection (b)(5) beginning with "Lowercase Roman Numerals" to "Uppercase Letters".

§ 34142. Notice of Foreign Support Order.

On the date a support order is entered pursuant to § 34141 of this Chapter, the Superior Court shall serve upon the obligor, in accordance with § 34132 of this Chapter, notice of a proposed income withholding. That notice shall contain the same information required in § 34132 of this Chapter. The notice shall also advise the obligor that the income withholding was requested on the basis of a support order of another

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jurisdiction. The date of serving notice on the obligor shall be the equivalent as that specified in § 34131 of this Chapter for the purpose of measuring time for holding a hearing and rendering a decision.

SOURCE: Added by P.L. 18-017:37 (Oct. 5, 1985).

2013 NOTE: Subsection designation deleted to adhere to the Compiler's general codification scheme in accordance to the authority granted by 1 GCA § 1606.

§ 34143. Income Withholding Hearing.

(a) At any hearing contesting proposed income withholding based on a support order entered under § 34141 of this Chapter, the entered order, accompanying sworn or certified statement, and a certified copy of an income withholding order, if any, still in effect, shall constitute prima facie proof, without further proof or foundation, that the support order is valid, that the amount of current support payments and arrearages is as stated, and that the obligee would be entitled to income withholding under the law of the jurisdiction which issued the support order.

(b) Once a prima facie case has been established, the obligor may raise only the following defenses:

(1) that withholding is not proper because of a mistake of fact that is not res judicata concerning such matters as an error in the amount of current support owed or arrearage that had accrued, mistaken identity of the obligor, or error in the amount of income to be withheld;

(2) that the court or agency which issued the support order entered under this Act lacked personal jurisdiction over the obligor;

(3) that the statute of limitations under § 34149 of this Chapter precludes enforcement of all or part of the arrearages. The burden shall be on the obligor to establish these defenses.

(c) If the obligor presents evidence which constitutes a full or partial defense, the court shall, at the request of the obligee, continue the case to permit further evidence relative to the defense to be adduced by either party. However, if the obligor acknowledges liability sufficient to entitle the obligee to income withholding, the court shall require income withholding for the payment of current support payments under the support order and of so much of any arrearage as is not in dispute, while continuing the case with respect to those matters still in dispute. The court shall determine which matters are still in dispute as soon as

possible, and, if appropriate, shall modify the withholding order to conform to that determination.

(d) In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses in another jurisdiction, including the parties and any of the children, by deposition, by written discovery, by photographic discovery such as videotaped depositions or by personal appearance before the court by telephone or photographic means. The court, on its own motion, may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

(e) The Superior Court may request the appropriate court or agency of another state to hold a hearing to adduce evidence, to permit a deposition to be taken before the court or agency, to order a party to produce or give evidence under other procedures of that state and to forward to the Superior Court certified copies of the evidence adduced in compliance with the request.

(f) Upon request of a court or agency of another jurisdiction, the Superior Court may order a person in this Territory to appear at a hearing or deposition to adduce evidence or to produce or give evidence under other procedures available in this Territory. A certified copy of the evidence adduced, such as a transcript or videotape, shall be forwarded by the Clerk of the Superior Court to the requesting court or agency.

(g) A person residing on Guam may voluntarily testify by deposition, statement or affidavit on Guam for use in a proceeding to obtain income withholding outside this jurisdiction.

SOURCE: Added by P.L. 18-017:38 (Oct. 5, 1985).

§ 34144. Income Withholding Order.

If the obligor does not request a hearing in the time provided, or if a hearing is held and it is determined that the obligee is entitled to income withholding under the local law of the jurisdiction which issued the support order, the court shall issue an income withholding order under § 34132 of this Chapter. The Department shall promptly notify the requesting agency, court or person of the date when withholding will begin.

SOURCE: Added by P.L. 18-017:39 (Oct. 5, 1985).

§ 34145. Notice to Employer and Other Provisions.

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The provisions of § 34138 of this Chapter apply to income withholding based on a support order of another jurisdiction entered under this Chapter.

SOURCE: Added by P.L. 18-017:40 (Oct. 5, 1985).

§ 34146. Distribution of Collected Support Payments.

(a) The income withholding order shall direct that payment be made to the Clerk of the Superior Court. The clerk shall promptly transmit payments received pursuant to an income withholding order based on a support order of another jurisdiction entered under this Chapter to the appropriate agency, court or person from the initiating jurisdiction.

(b) A support order entered pursuant to § 34141 of this Chapter does not nullify and is not nullified by a support order made by the Superior Court pursuant to any other law or by a support order made by a court of any other state. Amounts collected by any withholding of income shall be credited against the amounts accruing or accrued for any period under any support orders issued either by this territory or by a state.

SOURCE: Added by P.L. 18-017:41 (Oct. 5, 1985).

§ 34147. Voluntary Income Withholding.

Any person who is the obligor of a support order of another jurisdiction may obtain voluntary income withholding by filing with the Superior Court a request for such withholding and a certified copy of the support order of that jurisdiction. The court shall issue an income withholding order under § 34144 of this Chapter. Payment shall be made to the Clerk of Court who shall forward the money to the appropriate court or agency in the appropriate jurisdiction.

SOURCE: Added by P.L. 18-017:42 (Oct. 5, 1985).

§ 34148. Changes.

(a) Changes in original order. The Department, upon receiving a certified copy of any amendment or modification to a support order entered pursuant to § 34141 of this Chapter, shall initiate, as though it were a support order of this territory, necessary procedures to amend or modify the income withholding order of this Territory which was based upon the entered support order. The court shall amend or modify the income withholding order to conform to the modified support order.

(b) Changes in jurisdiction. If the Department determines that the obligor has obtained employment in another state or has a new or

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additional source of income in another state, it shall notify the agency which requested the income withholding of the changes within five (5) working days of receiving that information and shall forward to that agency all information it has or can obtain with respect to the obligor's new address and the name and address of the obligor's new employer or other source of income. The Department shall include with the notice a certified copy of the income withholding order in effect in this Territory.

SOURCE: Added by P.L. 18-017:43 (Oct. 5, 1985).

§ 34149. Choice of Law.

(a) The local law of this Territory shall apply in all actions and proceedings concerning the issuance, enforcement and duration of income withholding orders issued by a court of this Territory, which is based upon a support order of another jurisdiction entered pursuant to § 34141 of this Chapter except as provided in Subsections (b) and (c) of this Section.

(b) The law of the jurisdiction which issued the support order shall govern the following: arrearages which are enforceable by income withholding, including but not limited to interest, attorney's fees, court costs, and costs of paternity testing.

(c) The court shall apply the statute of limitations for maintaining an action on arrearages of support payments of either the local law of this territory or of the jurisdiction which issued the support order entered under this Chapter, whichever is longer.

SOURCE: Added by P.L. 18-017:44 (Oct. 5, 1985).

§ 34150. Availability of Remedies.

All remedies contained in this Chapter specifically available to the Department of Public Health and Social Services will also be available to persons represented by the Public Defender Service Corporation, Guam Legal Services Corporation, or privately retained attorneys, in the discretion of the Superior Court of Guam. However, whenever the Superior Court issues or modifies an order of support in such a case, the order shall include a provision that wage withholding is available as a remedy upon motion of the custodial parent if the absent parent is in arrears. The Superior Court may grant such a motion, in its discretion, if the defendant is in arrears in an amount equal to or greater than one month's support.

SOURCE: Added by P.L. 18-017:47 (Oct. 5, 1985).

§ 34151. Applicability of Provisions of this Chapter.

The provisions of this Chapter shall be applicable to all actions for child support, annulment, divorce, and separate maintenance unless specifically excluded or specifically made available only to the Department of Public Health and Social Services.

SOURCE: Added by P.L. 18-017:49 (Oct. 5, 1985).

§ 34152. Child Support Disbursement Unit.

The Child Support Enforcement Division [CSED] of the Office of the Attorney General is designated as Guam's State Disbursement Unit [SDU]. The SDU shall use automated procedures for the collection and disbursement of child support payments.

(a) Guam's SDU shall remit child support payments via electronic benefit transfer system or by direct deposit to an account designated by a custodial parent or other obligee. If no account is designated, the Deputy of the Child Support Enforcement Division, or the Deputy's designee, shall inform the SDU which method to use.

(b) Exceptions.

(1) Hardship. If payment by electronic means causes hardship, a custodial parent or obligee may request a hardship exception to be approved by the Deputy of the Child Support Enforcement Division or the Deputy's designee. Such request must be in writing and include documentation that supports the request. The Deputy will consider the individual's needs and, if appropriate, will inform SDU to make the requestor's payments by paper check. The Deputy will review exceptions periodically.

(2) Intra-Governmental Payments. Payments to the Department of Public Health and Social Services will continue by paper check until electronic payments become a feasible option.

(3) Other Good Cause. Where payments on an account are so infrequent that electronic means is impracticable, or other good cause exists, the Deputy of the Child Support Enforcement Division or the Deputy's designee, may direct the SDU to continue payment by paper check.

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SOURCE: Added by P.L. 20-170:19 (May 15, 1990). Repealed and Reenacted by P.L. 24-129:6 (Feb. 16 1998), P.L. 30-214:2 (Dec. 13, 2010).

§ 34152.1. Child Support Case Registry.

(a) Beginning October 1, 1998, the Department is designated as the Guam child support case registry, and shall collect, maintain, update and monitor child support enforcement records by use of an automated system, for all child support orders being enforced by the Department, and for all child support orders established or modified on Guam, on or after October 1, 1998.

(b) Beginning October 1, 1998, the Superior Court of Guam shall forward to the Department all support orders established or modified in domestic, child support and juvenile cases.

(c) The Guam case registry shall extract, share, compare and receive child support information from other data bases and furnish and exchange information with the Federal case registry of child support orders, the Federal parent locator service, other Guam agencies, and other states to facilitate the establishment or enforcement of child support orders.

SOURCE: Added by P.L. 24-129:25 (Feb. 16, 1998).

§ 34153. Hearings for Temporary Child Support in Divorce and Separate Maintenance Actions.

No summons for personal service in Guam in any action for divorce or separate maintenance may be issued if there are minor children of the marriage located on Guam, without the clerk of court at the time the summons is issued setting a hearing for temporary child support in the matter. The temporary support may be set by motion, an Order to Show Cause or by notice issued by the clerk. The party requesting the summons shall be deemed to have notice of such hearing without personal service upon that party. In the case of such Notice, Motion or Order to Show Cause, the defendant or other responding party shall be given at least five (5) days notice of the hearing in order to have time to prepare, and the summons or order to show cause shall at least require that both parents shall bring copies of their last three (3) pay check stubs for all employment, and copies of their last two (2) income tax returns and any other evidence of income which is relevant to the establishment of child support. If the children are off-island and not residents of Guam, the summons may be issued by the clerk of court without an order to appear, or motion upon affidavit of the plaintiff or certificate of the

plaintiffs attorney stating that there are no minor children of the parties who are residents of Guam or physically present on Guam. This section does not apply to cases where service is by publication or is made off-island.

SOURCE: Added by P.L. 22-099:15 (Mar. 31, 1994).

§ 34154. Fraudulent Transfers; Voiding of Fraudulent Transfers.

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

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

SOURCE: Added by P.L. 26-148:31 (Sept. 27, 2002) to satisfy new federal requirements.

§ 34155. “Most Wanted Delinquent Absent Parent List” and Other Lists of Delinquent Obligor.

(a) The Attorney General, or his/her designee, shall adopt a policy for the publication of a “Most Wanted Delinquent Absent Parent List” of obligors who are in arrears in their child support obligations pursuant to an order from any tribunal, as defined in Title 5, Guam Code Annotated, § 35101(v). The Attorney General, or his/her designee, may publish any other list(s) of delinquent child support obligors, in conformity with Subsections (c), (d), (e) and (f) of this Section.

(b) The Attorney General, or his/her designee, shall determine criteria for the publication of the identity and information from ten (10) to thirty (30) individuals, whom are unable to be located by the Child Support Division, on the “Most Wanted Delinquent Absent Parent List” to include any combination of the following, as deemed appropriate:

(1) Irregularity of voluntary tribunal-ordered payments made by the obligor under the support order;

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(2) The total amount of voluntary child support payments owed; and/or

(3) The total length of delinquency for voluntary child support payments.

(c) Forty-five (45) days prior to the disclosure under Subsection (a) of this Section of the name of the obligor who is in arrears in his or her child support obligations, the Attorney General, or his/her designee, shall mail a written notice to the obligor through first-class mail to the obligor's last known address. The notice shall detail the amount of the arrearage and the intent of the Attorney General, or his/her designee, to disclose the arrearage. If the arrearage is not paid or a written agreement with the Attorney General, or his/her designee, for payment of the arrearage is not formalized, the Attorney General, or his/her designee, may disclose the individual's arrearage and information of the obligor.

(d) The list shall be available for public inspection on the Attorney General's website. The Attorney General, or his/her designee, may create a poster and/or furnish the list to a newspaper of general circulation on Guam for publication, and shall establish uniform standards for such publication.

(e) Any disclosure made in good faith by the Attorney General, or his/her designee, to comply with this Section shall not be considered a violation of any confidentiality laws.

(f) The following information relating to the obligor, in addition to the obligor's name, may be disclosed by the Attorney General, or his/her designee:

(1) Any other name(s) or alias by which the obligor is or has been known;

(2) A photograph of the obligor, along with the date or approximate date on which the photograph was taken;

(3) A physical description of the obligor, including any distinguishing features;

(4) The obligor's age;

(5) The obligor's last known address; and/or

(6) The obligor's usual employment or occupation.

SOURCE: Added by P.L. 31-174:1 (Feb. 3, 2012).

ARTICLE 2
ACTION AGAINST LICENSES FOR FAILURE TO PAY CHILD SUPPORT

SOURCE: Article 2 was added by P.L. 24-116:1 (Dec. 11, 1997); expired on September 30, 1999 by operation of law (P.L. 24-116:13) and reenacted in its present form by P.L. 25-161:2 (Aug. 31, 2000).

- § 34201. Purposes.
- § 34202. Definitions.
- § 34203. Notice of Proposed Action.
- § 34204. Stay of Action.
- § 34205. Petition for Administrative Hearing.
- § 34206. Hearing.
- § 34207. Decision After Hearing.
- § 34208. Judicial Review.
- § 34209. Certification to Licensing Body.
- § 34210. Compliance; How Obtained.
- § 34211. Written Confirmation of Compliance.
- § 34212. Exchange of Information.
- § 34213. Suspension.
- § 34214. Notice from Licensing Body.
- § 34215. Subsequent Re-issuance, Renewal or Other Extension of License.
- § 34216. Claim of Special Need.
- § 34217. Assistance to Unrepresented Persons.
- § 34218. Failure to Comply with Warrants and Subpoenas.

§ 34201. Purposes.

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

§ 34202. Definitions.

As used in this Article:

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

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

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

(d) Department means the Department of Law, unless otherwise expressly provided, or unless the context clearly requires otherwise.

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

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

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

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

SOURCE: Subsection (c) amended by P.L. 26-148:16 (Sept. 27, 2002) to ensure that all administrative orders and processes enacted by P.L. 26-148 are included in this definition as per federal requirements.

§ 34203. Notice of Proposed Action.

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

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

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

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

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

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

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

§ 34204. Stay of Action.

(a) If the non-custodial parent petitions for an administrative hearing within twenty (20) days of service of the notice of proposed action, the

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Department shall stay action to certify the non-custodial parent to any licensing body for non-compliance with a court order of support, until thirty (30) days after the Department serves a decision after hearing that finds the absent parent is in non-compliance with the order of support.

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

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

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

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

§ 34205. Petition for Administrative Hearing.

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

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

§ 34206. Hearing.

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

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

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

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

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

§ 34207. Decision After Hearing.

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

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

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

§ 34208. Judicial Review.

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

§ 34209. Certification to Licensing Body.

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

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

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

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

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

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

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

§ 34210. Compliance; How Obtained.

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

§ 34211. Written Confirmation of Compliance.

If a non-custodial parent who is served with a notice of proposed action or is certified to a licensing body subsequently comes into compliance with a court order of support, the Department shall provide the non-custodial parent and the licensing bodies with written confirmation that the non-custodial parent is in compliance with this order within twenty-four (24) hours of compliance.

§ 34212. Exchange of Information.

Notwithstanding § 34109, within six (6) months of the effective date of this Act, all licensing bodies shall provide, and update quarterly, the Department with information, concerning applicants for licensure and current license holders, on magnetic tape or other machine readable form, if available. Such information shall include the license holder or applicant's name, address of record, Federal employer identification number or social security number, type of license, effective date of license or renewal, expiration date of license, and active or inactive status.

SOURCE: Reference to § 34109 added by P.L. 26-148:25 (Sept. 27, 2002) to make sure that these two sections are read separately and provide for separate requirements.

§ 34213. Suspension, Non-issuance and Non-renewal of Licenses.

A licensing body shall suspend the license of a non-custodial parent who has been certified as being in non-compliance with a court order of support, and may not issue or renew the license of a non-custodial parent who has been certified as being in non-compliance with a court order of support or payment agreement, until the non-custodial parent or the Department provides the licensing body with written confirmation from the Department or the Superior Court of Guam that the non-custodial parent is in compliance with the court order.

§ 34214. Notice from Licensing Body.

A licensing body shall notify a non-custodial parent certified by the Department to be in non-compliance at least ten (10) days prior to denial or suspension, that the non-custodial parent's application for issuance or renewal of a license will not be granted or that the non-custodial parent's license has been suspended because the non-custodial parent's name has been certified by the Department as being in non-compliance with a court order of support. A notice of suspension must specify the effective date of the suspension, and that the suspension will continue in effect, or the license will not be issued or renewed until the non-custodial parent

provides the licensing body with the Department's written confirmation that the non-custodial parent is in compliance with the court order of support.

§ 34215. Subsequent Re-issuance, Renewal or Other Extension of License.

After receipt of written confirmation of compliance from the Department, a licensing body shall, within five (5) working days, reissue, renew, or otherwise extend a license against which action had been taken for non-compliance with an order for support. The re-issuance, renewal, or other extension of the license after receipt of written confirmation of compliance shall occur pursuant to the requirements of the licensing body, except that the licensing body may waive any applicable requirement for re-issuance, renewal or other extension if it determines, in its sole discretion, that the imposition of that requirement places an undue burden on the non-custodial parent and that waiver of that requirement is consistent with the public interest.

SOURCE: Amended by P.L. 26-148:17 (Sept. 27, 2002) to clearly reference the Department (Law) which has the responsibility to notify the licensing agencies of compliance; and to ensure that the licensing agencies are free to make their own determination with regards to their requirements for re-issuance of the license involved.

§ 34216. Claim of Special Need.

A non-custodial parent whose vehicle operator's license is suspended for non-compliance with a court order of support may request the Department to issue a written statement that permits the Director of the Department of Revenue and Taxation to issue a temporary license valid for a period not to exceed one hundred twenty (120) days. The Department may grant such requests only upon a showing of medical need or work requirement to obtain a temporary license and only if the non-custodial parent demonstrates that persons intention to come into compliance with the court order of support.

§ 34217. Assistance to Unrepresented Persons.

The Hearings Division, Superior Court of Guam, shall make available to non-custodial parents who are not represented by an attorney, forms which would enable such non-custodial parents to make handwritten applications for reduction of their arrearages to judgment and for the establishment or modification of orders requiring payments on arrearages.

§ 34218. Failure to Comply with Warrants and Subpoenas.

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

SOURCE: Added by P.L. 26-148:26 (Sept. 27, 2002).

COMMENT: New federal law, SSA (a)(16) requires that failure to obey warrants and subpoenas also result in forfeiture of various licenses.

**ARTICLE 3
NEW HIRE DIRECTORY**

SOURCE: Article 3 was added by P.L. 24-116:11 (Dec. 11, 1997); expired on Sept. 30, 1999 by operation of P.L. 24-116:13, and reenacted in its present form by P.L. 25-161:8 (Aug. 31, 2000).

- § 34301. Definitions.
- § 34302. New Hire Directory Established.
- § 34303. Duty to Report.
- § 34304. Penalty.
- § 34305. Means to Report.
- § 34306. Information Required to Be Reported.
- § 34307. Access to and Disposition of Data.
- § 34308. Government of Guam to Report Hiring of Independent Contractors.
- § 34309. Comparison of Information; Notice of Match.

§ 34301. Definitions.

As used in this Article:

- (a) Date of hiring means the earlier of:
 - (1) the first day for which an employee is owed compensation by an employer; or

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

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

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

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

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

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

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

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

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

(h) Director of New Hires shall mean the Attorney General or that persons designee within the Child Support Enforcement Office of the Department.

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

SOURCE: P.L. 26-148:18-20 (Sept. 27, 2002) added subsections (g), (h), (i) to meet new federal requirements.

§ 34302. New Hire Directory Established.

There is established, within the Department of Law, Family Division, a New Hire Directory for the purpose of receiving information supplied by employers on newly hired or rehired employees.

§ 34303. Duty to Report.

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

SOURCE: Subsection (b) repealed by P.L. 26-148:21 (Sept. 27, 2002).

2013 NOTE: Subsection designation deleted to adhere to the Compiler's alpha-numeric scheme in accordance to the authority granted by 1 GCA § 1606.

§ 34304. Penalty.

(a) An employer who:

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

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

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

§ 34305. Means to Report.

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(a) Employers may report by delivering, mailing, or telefaxing a copy of the employees Federal W-4 form or W-9 form or any other document that contains the required information, transmitting the required information by electronic or magnetic means in a compatible format, or by other means authorized by the Director of the Department of Law that will result in timely reporting.

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

- (1) twice a month, and
- (2) not less than twelve (12) days or more than sixteen (16) days apart.

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

§ 34306. Information Required to Be Reported; Multi-state Employers.

(a) Reports required under § 34303 of this Chapter must contain:

- (1) the employees name, address, social security number, and date of birth when available, which can be handwritten or otherwise added to the W-4 form, W-9 form or other document submitted; and
- (2) the employers name, address, and Federal identification number.

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

SOURCE: Repealed and reenacted by P.L. 26-148:22 (Sept. 27, 2002) to add subsection (b) to include latest federal requirements on reporting.

§ 34307. Access to and Disposition of Information.

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

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

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

(d) Within two (2) working days after the date information regarding a newly hired employee is entered into the Directory of New Hires, the Department shall transfer a notice to the employer directing the employer to withhold from the income of the employee an amount equal to the monthly or other periodic child support obligation, including any payment ordered for past due support, unless the employee's income is not subject to withholding pursuant to a finding of the court or administrative body that there is good cause not to require immediate income withholding, or a written agreement is reached between both parties which provides for an alternative arrangement. In any event, however, the income of a non-custodial parent shall become subject to withholding on the date the non-custodial parent's support obligation is in arrears one (1) month, or on the date the non-custodial parent requests that the withholding begin, or on the date the custodial parent requests the withholding begin and the Department determines there is no reason why the request should not be approved, or on the date the Department so elects.

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

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

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

SOURCE: Repealed and reenacted by P.L. 26-148:23 (Sept. 27, 2002) because federal law no longer permits destruction of data. Authorized uses of data are given.

§ 34308. Government of Guam to Report Hiring of Independent Contractors.

The government of Guam, when acting in the capacity of contractee, shall report the execution of a contract with any person as an independent contractor to the Director of New Hires in the same manner as the hiring of an employee is reported.

§ 34309. Comparison of Information; Notice of Match.

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

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

SOURCE: Added by P.L. 26-148:24 (Sept. 27, 2002) to meet new federal requirements.

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