

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

**CHAPTER 40
PROTECTION FROM ABUSE**

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

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 Therefore, this Compiler will omit Title IX of Part III of the CCP (§§ 1398 and 1399) because they have been repealed by implication, having been replaced by sections dealing totally but differently with the same subject.

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

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§ 40101. Definitions.

As used in this Chapter:

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

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

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

(3) sexually abusing minor children.

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

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(c) *Court* means the Superior Court.

(d) *Family or household members* means:

- (1) Current *or* former spouses;
- (2) Adults or minors who live together or who have lived together;
- (3) Adults *or* minors who are dating *or* who have dated;
- (4) Adults *or* minors who are engaged in *or* who have engaged in a sexual relationship;
- (5) Adults *or* minors who are related by blood *or* adoption to the fourth (4th) degree of affinity;
- (6) Adults *or* minors who are related *or* were formerly related by marriage;
- (7) Persons who have a child in common; or
- (8) Minor children of persons described in paragraphs (1) through (7) above.

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

§ 40102. Jurisdiction.

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

SOURCE: CCP § 1451.

§ 40103. Commencement of Proceedings.

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

SOURCE: CCP § 1452.

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§ 40104. Hearing.

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

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

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

SOURCE: CCP § 1453.

§ 40105. Relief.

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

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

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

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

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

(b) Any protection order or approved consent agreement *shall* be for a fixed period of time as the court deems appropriate. The court may amend its order or agreement at any time upon subsequent petition or motion filed by either party.

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

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

§ 40106. Notification.

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

SOURCE: CCP § 1455.

§ 40107. Emergency Relief.

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

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

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

SOURCE: CCP § 1456.

§ 40108. Procedure.

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

SOURCE: CCP § 1457.

§ 40109. Contempt.

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

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SOURCE: CCP § 1458.

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