

Title 39.

Domestic Relations.

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CHAPTER 1.

GENERAL PROVISIONS.

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| 1. Jurisdiction of high court. | 4. Same; local custom recognized. |
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§ 1. Jurisdiction of high court. — The high court shall have concurrent jurisdiction with the district courts to grant any adoption, and with the community and district courts to grant any annulment or divorce authorized under this title, and may, for cause shown, order any proceeding in annulment, divorce, or adoption pending before another court transferred to the high court for disposition. Proceedings in annulment, divorce, or adoption in the high court may be filed in any administrative district within which the matter might have been handled by a community court or a district court. (Code 1966, § 711; Code 1970, tit. 39, § 1; P.L. No. 4C-56, § 1.)

§ 2. Proceedings in annulment, divorce, or adoption; petitions. — (1) All proceedings for annulment, divorce, or adoption shall be commenced by petition signed and sworn to by the petitioner or petitioners personally, except that a community court may accept an oral petition under oath if it deems best.

(2) The petition shall set forth sufficient facts as to the residence of the parties to show jurisdiction under this title.

(3) A petition for annulment or divorce shall, so far as practicable, include the date and place of marriage of the parties, the cause for the annulment or divorce, and the approximate date and place where it occurred if the cause consists of individual acts, otherwise sufficient details as to cause to identify with reasonable certainty the facts relied upon, and a statement as to any prior application which is known to have been made by either party for annulment or divorce of the marriage in question or for separation under it, in this or any other jurisdiction, and the result of such application, if known.

(4) Service of petitions filed under this section shall be made upon any respondent or respondents, if any, in the manner provided by law for service of complaints. In such cases, any respondent or respondents shall be accorded such time as may be provided by law for filing an answer to complaints to file an answer to the petition. (Code 1966, § 712; Code 1970, tit. 37, § 2; P.L. No. 4C-56, § 2.)

§ 3. Same; appeal and review. — (1) All decrees for annulment, divorce, or adoption under this title shall be subject to appeal, and in the case of

community courts and district courts to review as in other civil cases, and no such decree shall become absolute or affect the legal status of the parties until the case has been reviewed, if subject to review by the high court, and until the period for appeal has expired without any appeal having been filed or until any appeal taken shall have been finally dispatched.

(2) Except as otherwise expressly provided by this title, annulment, divorce and adoption proceedings shall be governed by the provisions of law and rule of civil procedure applicable to civil actions. (Code 1966, § 713; Code 1970, tit. 37, § 3.)

§ 4. Same; local custom recognized. — Nothing contained in this title, except for the provisions of section 5 of this chapter, shall apply to any annulment, divorce, or adoption effected in accordance with local custom, nor shall any restrictions or limitations be imposed upon the granting of annulments, divorces, or adoptions in accordance with local custom. (Code 1966, § 714; Code 1970, tit. 39, § 4.)

Cross references. — Local customs, 1 TTC § 14.

Local customary divorces permitted. — Local customary divorces are permitted under Trust Territory law. *Ketari v. Taro*, 3 TTR 279 (1967).

Local customary law as to annulments, divorces or adoptions is unrestricted. — No restrictions or limitations are imposed by Trust Territory law upon granting of annulments, divorces or adoptions in accordance with local custom. *Ketari v. Taro*, 3 TTR 279 (1967).

Original granting of customary divorce may not involve courts. — Although Trust Territory law recognizes divorce under local custom, courts should have nothing to do with original granting of customary divorce. *Yamada v. Yamada*, 2 TTR 66 (1959).

Dissolution of marriage by "throwing away" of other spouse is valid. — Divorce effected in accordance with local custom is recognized as valid; thus, a marriage may be legally dissolved under Truk custom at any time, at will and without the action of any court, magistrate, or official, by either spouse

"throwing away" the other spouse. *Aisea v. Trust Territory*, 1 TTR 245 (1955).

Dissolution of marriage by custom "throwing away" of spouse not a crime. — Under Truk custom, marriage may be dissolved by either spouse at any time at will without action by any court, magistrate or official, and the "throwing away" of a spouse does not constitute a crime. *Lornis v. Trust Territory*, 2 TTR 114 (1959).

Effect of failure to record a customary divorce. — Failure to record a divorce in municipal office has no effect on the validity of a divorce under Truk custom. *Aisea v. Trust Territory*, 1 TTR 245 (1955).

Whether intercourse occurred before or after customary divorce is vital question in adultery prosecution. — Since parties who are married under Truk custom cannot commit customary crime of adultery with each other, question as to whether intercourse occurred before or after customary divorce from former spouse is of utmost importance in prosecution for adultery. *Lornis v. Trust Territory*, 2 TTR 114 (1959).

§ 5. Same; confirmation in accordance with recognized custom. — When an annulment, divorce, or adoption has been effected in the Trust Territory in accordance with recognized custom and the validity thereof is questioned or disputed by anyone in such a manner as to cause serious embarrassment to or affect the property rights of any of the parties or their children, any party thereto or any of his children may bring a petition in the high court for a decree confirming the annulment, divorce, or adoption effected in accordance with recognized custom. Such a petition shall be signed and sworn to by the petitioner personally, and shall be filed in the district where the annulment, divorce, or adoption was effected. If, after notice to all parties still living and a hearing, the court is satisfied that the annulment, divorce, or adoption alleged is valid in accordance with recognized custom in the part of the Trust Territory where it was effected, the high court shall enter a decree confirming the annulment, divorce, or adoption and may include in this decree the date it finds the annulment, divorce, or adoption was absolute until the

period for appealing has expired without any appeal having been filed or until any appeal taken shall have been filed or until any appeal taken shall have been finally dispatched. (Code 1966, § 715; Code 1970, tit. 39, § 5; P.L. No. 4C-56, § 3.)

High court decree confirming customary annulment, divorce or adoption. — The high court may enter decree confirming annulment, divorce or adoption in accordance with recognized custom. *Mutong v. Mutong*, 2 TTR 588 (1964).

Once marriage is dissolved, action may not be dismissed by motion stating reconciliation of parties. — Once marriage has been dissolved by court action, it is not possible to dismiss action on basis of motion filed thereafter reciting that parties have reconciled. *Mutong v. Mutong*, 3 TTR 165 (1966).

Customary adoption not barred because of variation in names of those concerned. — Variation in names of those concerned with adoption of child will not bar confirmation of customary Palauan adoption authorized by Trust Territory law. *In re Iyar*, 2 TTR 331 (1962).

Adoption confirmed as of date of customary adoption. — Where adoption is effected in accordance with recognized Palau custom, it will be confirmed as of date of customary adoption. *In re Iyar*, 2 TTR 331 (1962).

§ 6. Age of majority. — All persons, whether male or female, residing in the Trust Territory, who shall have attained the age of eighteen years shall be regarded as of legal age and their period of minority to have ceased. (Code 1970, tit. 39, § 6.)

CHAPTER 2.

MARRIAGE.

Sec.

51. Two noncitizens or noncitizen and citizen;
requisites of marriage contract.

52. Same; license.

Sec.

53. Same; ceremony.

54. Records; certificates; register.

55. Marriages between citizens.

§ 51. Two noncitizens or noncitizen and citizen; requisites of marriage contract. — In order to make valid the marriage contract between two noncitizens or between a noncitizen and a citizen of the Trust Territory, it shall be necessary that:

(1) The male at the time of contracting the marriage be at least eighteen years of age and the female at least sixteen years of age, and if the female is less than eighteen years of age she must have the consent of at least one of her parents or her guardian;

(2) Neither of the respective parties has a lawful spouse living; and,

(3) A marriage ceremony be performed by a duly authorized person as provided in this chapter. (Code 1966, § 690; Code 1970, tit. 39, § 51.)

Stricter procedural requirements in marriages involving noncitizens. — involving non-citizens than in marriages involving only citizens of the Trust Territory, Congress of Micronesia, in imposing stricter procedural requirements in marriages has made section mandatory. In re Airam (App. Div., July, 1976).

§ 52. Same; license. — (1) The district administrator in each district is authorized to grant a license for marriage between two noncitizens or between a noncitizen and a citizen of the Trust Territory. Upon the filing of an application for such a license, the district administrator shall collect from the parties making the application the sum of two dollars to be remitted to the treasurer of the Trust Territory.

(2) In order to obtain a license to marry, the parties shall file with the district administrator an application in writing setting forth as to each party: his or her full name, age, citizenship, residence, occupation, if any, whether previously married and the manner of dissolution of such prior marriage or marriages. If the statements in the application are satisfactory and it appears that the parties are free to marry, the district administrator shall issue to the parties a license to marry. Nothing in this section shall be construed to prevent the issuance of a license to marry to two citizens of the Trust Territory. (Code 1966, § 691; Code 1970, tit. 39, § 52.)

Stricter procedural requirements in marriages involving noncitizens. — involving noncitizens than in marriages involving only citizens of the Trust Territory, Congress of Micronesia, in imposing stricter procedural requirements in marriages has made section mandatory. In re Airam (App. Div., July, 1976).

§ 53. Same; ceremony. — The presence of two witnesses, at least, is requisite for the celebration of a marriage between two noncitizens or between a noncitizen and a citizen of the Trust Territory. The marriage ceremony shall be performed in the district in which the license is issued. The marriage rite may be performed and solemnized by an ordained minister, a judge of the high court, a judge of the district court, a district administrator, or by any person authorized by law to perform marriages, upon presentation to him of a license to marry as prescribed in section 52 of this chapter. The person solemnizing a marriage may receive a fee to be stipulated by the parties, or the gratification tendered to him. (Code 1966, § 692; Code 1970, tit. 39, § 53.)

Mandatory that a person mentioned in section solemnize marriage. — Requirement that solemnization be performed by a person

mentioned in section in order to constitute a valid marriage is a mandatory condition. In re Airam (App. Div., July, 1976).

§ 54. Records; certificates; register. — It shall be the duty of every persons authorized to perform marriages to make and preserve a record of every marriage performed by him, regardless of the citizenship of the parties, showing the names of the persons married, their places of residence and the date of marriage, and to deliver to the bride immediately after the ceremony a certificate of the record of such marriage, signed by him, two witnesses, if there were as many as two, and the persons married. He shall send a copy of the marriage certificate, not later than ten days after the granting of the same, to the clerk of courts for the district to be recorded in the marriage register. Forms issued by the High Commissioner for such marriage certificates shall be used when available, but lack of such forms shall not excuse failure to provide the bride with the certificate and the clerk with the copy required above in substantially the same form, and containing the same information as in the forms issued by the High Commissioner. (Code 1966, § 693; Code 1970, tit. 39, § 54.)

§ 55. Marriages between citizens. — Marriage contracts between parties, both of whom are citizens of the Trust Territory, solemnized in accordance with recognized customs, shall be valid. A notice of such marriage, showing the names and addresses of the persons married, their ages and the date of marriage, shall be sent to the clerk of courts, who shall upon receipt thereof record the same in the marriage register. (Code 1966, § 694; Code 1970, tit. 39, § 55.)

Customary marriages valid for citizens only. — Customary marriages are valid between Trust Territory citizens only. In re Airam (App. Div., July, 1976).

Appearance of marriage under local custom enough for bigamy statute. — In Trust Territory, where marriages under local

custom are expressly recognized, appearance of marriage under local custom is sufficient to constitute "marrying" within meaning of bigamy statute, even though no marriage ceremony is involved. *Umiich v. Trust Territory*, 3 TTR 231 (1967).

CHAPTER 3.

ANNULMENT AND DIVORCE.

Subchapter I.**General Provisions.**

Sec.

101. Competency of community and district courts.

102. [Repealed.]

103. Orders for custody, support and alimony.

104. Effect of decree.

Subchapter II.**Annulment.**

151. Authorized; grounds.

Sec.

152. Residency requirements.

153. Legitimacy of issue of annulled marriage.

Subchapter III.**Divorce.**

201. Grounds.

202. Residency requirements.

203. Forgiveness as defense.

204. Procurement or connivance as defense.

SUBCHAPTER I.

General Provisions.

§ 101. Competency of community and district courts. — An annulment or a divorce authorized by this chapter may be granted by any community court or district court within whose jurisdiction either of the parties has resided for three months immediately prior to the filing of the complaint. (Code 1966, § 702; Code 1970, tit. 39, § 101.)

Authorization of district and community courts as to divorces, annulments, support orders. — District and community courts are authorized to grant divorces and annulments and to make orders for support of minor children and support of either party. *Sam v. Sam*, 3 TTR 203 (1966).

District court may consider prayers for support only in divorce or annulment actions. — There is no authorization for district court to consider prayers for support except in actions for divorce or annulment and unless prayer is for amount within jurisdiction of court. *Sam v. Sam*, 3 TTR 203 (1966).

§ 102. Repealed by P.L. No. 4C-56, § 4.

§ 103. Orders for custody, support and alimony. — In granting or denying an annulment or a divorce, the court may make such orders for custody of minor children for their support, for support of either party, and for the disposition of either or both parties' interest in any property in which both have interests, as it deems justice and the best interests of all concerned may require. While an action for annulment or divorce is pending, the court may make temporary orders covering any of these matters pending final decree. Any decree as to custody or support of minor children or of the parties shall be subject to revision by the court at any time upon motion of either party and such notice, if any, as the court deems justice requires. (Code 1966, § 704; Code 1970, tit. 39, § 103.)

Authorization of district and community courts as to divorces, annulments, support orders. — District and community courts are authorized to grant divorces and annulments and to make orders for support of minor children and support of either party. *Sam v. Sam*, 3 TTR 203 (1966).

repeated forgiveness of parties indicates possibility of reconciliation. *Yamada v. Yamada*, 2 TTR 66 (1959).

Repeated forgiving of parties may indicate possibility of reconciliation. — courts may choose not to grant a divorce where

Only property in which both spouses have interest is subject to court award. — This section does not give the court authority to award the separate property of one of the spouses to the other in a divorce proceeding. Rather such section permits disposition of only property in which both have interests. *Nekai v. Nekai*, 4 TTR 388 (1969).

Jurisdiction to dispose of property as justice and best interests of parties require.

— Under this section the court, as to property in which both parties have interests, has jurisdiction to dispose of it as it deems justice and the best interests of all concerned may require, and this might involve an equal division of the property, or giving it all to the “innocent party,” or it might even require that it be given to the “guilty party,” the one whose wrong caused the divorce. *Nekai v. Nekai*, 4 TTR 388 (1969).

District court may consider prayers for support only in divorce or annulment actions. — There is no authorization for district court to consider prayers for support except in actions for divorce or annulment and unless prayer is for amount within jurisdiction of court. *Sam v. Sam*, 3 TTR 203 (1966).

Trust Territory law similar to community property states. — This section was apparently drafted to make the law in the Trust Territory similar to the laws in the “community

property states” of the United States. *Nekai v. Nekai*, 4 TTR 388 (1969).

Best interests of children controlling in custody question. — In action for divorce, custody of children is controlled primarily by best interests of children. *Yamada v. Yamada*, 2 TTR 66 (1959).

Usually best for mother to have custody of children under twelve. — In action for divorce, custody of mother of children under twelve years of age usually is best where consistent with local culture. *Yamada v. Yamada*, 2 TTR 66 (1959).

Power of court to revise support decree construed. — The provisions of section 102, relating to power of the court to revise at any time a decree as to support of minor children, did not imply the court could not make subsequent provisions for child support even though the decree did not contain a provision which could be “revised” in accordance with that Code provision. *Ngodrii v. Kumaichi*, 5 TTR 121 (1967).

§ 104. Effect of decree. — The effect of a decree of annulment or divorce when it has become absolute shall be to restore the parties to the state of unmarried persons so far as the marriage in question is concerned. (Code 1966, § 705; Code 1970, tit. 39, § 104.)

Effect of absolute decree of divorce. — Absolute decree of divorce granted pursuant to this Code restores parties to state of unmarried

persons so far as marriage in question is concerned. *Sam v. Sam*, 3 TTR 203 (1966).

SUBCHAPTER II.

Annulment.

§ 151. Authorized; grounds. — A decree annulling a marriage may be rendered on any ground existing at the time of the marriage which makes the marriage illegal and void or voidable. A court may, however, refuse to annul a marriage which has been ratified and confirmed by voluntary cohabitation after the obstacle to the validity of the marriage has ceased, unless the public interest requires that the marriage be annulled. (Code 1966, § 695; Code 1970, tit. 39, § 151.)

§ 152. Residency requirements. — No annulment shall be granted unless one of the parties shall have resided in the Trust Territory for the three months immediately preceding the filing of the complaint. (Code 1966, § 696; Code 1970, tit. 39, § 152.)

§ 153. Legitimacy of issue of annulled marriage. — The issue of a marriage annulled under this chapter shall be legitimate. (Code 1966, § 697; Code 1970, tit. 39, § 153.)

SUBCHAPTER III.

Divorce.

§ 201. **Grounds.** — Divorces from marriage may be granted under this chapter for the following causes and no other:

- (1) Adultery.
- (2) The guilt of either party toward the other of such cruel treatment, neglect or personal indignities, whether or not amounting to physical cruelty, as to render the life of the other burdensome and intolerable and their further living together unsupportable.
- (3) Wilful desertion continued for a period of not less than one year.
- (4) Habitual intemperance in the use of intoxicating liquor or drugs continued for a period of not less than one year.
- (5) The sentencing of either party to imprisonment for life or for three years or more. After divorce for such cause, no pardon granted to the party so sentenced shall affect such divorce.
- (6) The insanity of either party where the same has existed for three years or more.
- (7) The contracting by either party of leprosy.
- (8) The separation of the parties for two consecutive years without cohabitation, whether or not by mutual consent.
- (9) Wilful neglect by the husband to provide suitable support for his wife when able to do so or when failure to do so is because of his idleness, profligacy or dissipation. (Code 1966, § 698; Code 1970, tit. 39, § 201.)

Court divorce only authorized on proof of one of listed grounds. — Court divorce is only authorized on proof of one of grounds listed in Code which are recognized by law to constitute good reason. *Ketari v. Taro*, 3 TTR 279 (1967).

Separation grounds for divorce construed. — Under this Code court may grant divorce on grounds of separation whether or not the separation was by mutual consent, and this negates the question of fault. *Katindoy v. Katindoy*, 5 TTR 412 (1971).

Measurement of period parties have lived apart without cohabitation. — To establish grounds for divorce based on the parties having lived apart for more than two consecutive years without cohabitation, the two year period does not begin to run until there is a manifestation of intent on the part of the plaintiff not to continue the marriage relationship. *Dean v. Dean*, 5 TTR 594 (1972).

Court required to exercise good judgment as to divorce even if a permitted cause is shown. — In granting divorce under this Code, court is expected to exercise good judgment in determining in accordance with established legal principles whether divorce

should be granted even if one of permitted causes is shown. *Yamada v. Yamada*, 2 TTR 66 (1959).

Legal principles in decisions apply only to cases of divorce under the Code. — Principles of law contained in Trust Territory decisions regarding divorce apply only to cases of divorce under the Code, and the Code provisions regarding divorce indicate policy of making divorces available in accordance with liberal or tolerant modern view prevailing in some states in the United States. *Yamada v. Yamada*, 2 TTR 66 (1959).

In Trust Territory, recrimination is a discretionary or qualified defense. — Older view in the United States, that if both parties are guilty of offense constituting grounds for divorce neither could obtain divorce, is not in accord with spirit of this Code nor suitable to conditions here. Proper rule as to granting of divorce under this Code is that misconduct of plaintiff (recrimination) is discretionary or qualified defense, and if both parties are guilty of misconduct, court may grant divorce to one less at fault. *Yamada v. Yamada*, 2 TTR 66 (1959).

§ 202. **Residency requirements.** — No divorce shall be granted unless one of the parties shall have resided in the Trust Territory for the two years immediately preceding the filing of the complaint. (Code 1966, § 699; Code 1970, tit. 39, § 202.)

Res, or marriage, over which court must have jurisdiction, follows domicile. — To grant a divorce, a court must have jurisdiction over the res, or marriage, which follows the domicile of the spouses. *Hamrick v. Hamrick*, 6 TTR 252 (1973).

Residency requirement for divorce is violative of equal protection. — The two year residency requirement for granting a divorce in the Trust Territory denies a party of equal protection of the laws and is thus invalid. *Yang v. Yang*, 5 TTR 427 (1971).

Jurisdiction of action for divorce involving foreign national. — Foreign national's residence for purpose of divorce is to be considered in the light of the laws of the Trust Territory, rather than any foreign jurisdiction and where such foreign national had complied with the residency requirement of the Trust Territory, court had jurisdiction of the action. *Katindoy v. Katindoy*, 5 TTR 412 (1971).

Court does not have discretion to violate residency statute. — Where statute required two years' residence to file for divorce, it was not within court's discretion to violate it in

favor of husband suing wife, a Guam domiciliary, for divorce even though he had been in the Trust Territory for only eight months, merely because wife did not contest the action and even requested the entry of a default against her and the decision would thus not be subject to collateral attack. *Hamrick v. Hamrick*, 6 TTR 252 (1973).

Right to immigrate at will not insured to noncitizens; residency requirement not violative of rights to travel and equal protection. — The Trust Territory is not a state of the United States and for many purposes is considered a foreign state or territory under United States administration; and its citizens are not citizens of the United States; thus, while the territory must insure equal protection and freedom of migration within the territory under the Code, it is under no obligation to insure to noncitizens the right to immigrate at will, and residency requirement of two years to file for divorce could not be attacked as a denial of the rights to travel and equal protection. *Hamrick v. Hamrick*, 6 TTR 252 (1973).

§ 203. Forgiveness as defense. — No divorce shall be granted where the ground for the divorce has been forgiven by the injured party. Such forgiveness may be shown by express proof or by the voluntary cohabitation of the parties with knowledge of the fact and restoration of the forgiving party to all marital rights. Such forgiveness implies a condition that the forgiving party must be treated with conjugal kindness. This forgiveness is revoked and the original ground for divorce is revived if the party forgiven commits an act of constituting a like or other ground for divorce or is guilty of conjugal unkindness sufficiently habitual and gross to show that the conditions of forgiveness have not been accepted in good faith or have not been fulfilled. (Code 1966, § 700; Code 1970, tit. 39, § 203.)

§ 204. Procurement or connivance as defense. — No divorce for the cause of adultery shall be granted where the offense has been committed by the procurement or with the connivance of the plaintiff. (Code 1966, § 701; Code 1970, tit. 39, § 204.)

CHAPTER 4.

ADOPTION.

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252. Adoption by decree.	255. Effect of decree.
253. Persons to be notified or consents to be obtained.	

§ 251. Competency of district courts and high court. — An adoption authorized under this chapter may be granted by any district court within whose territorial jurisdiction the person or persons requesting the adoption reside or within whose jurisdiction the child resides, or by the trial division of the high court in such jurisdiction. (Code 1966, § 709; Code 1970, tit. 39, § 251; P.L. No. 4C-56, § 5.)

§ 252. Adoption by decree. — (1) Any suitable person who is not married, or is married to the father or mother of a child, or a husband and wife jointly may by decree of court adopt a child, not theirs by birth, and the decree may provide for change of the name of the child. If the child is adopted by a person married to the father or mother of the child, the same rights and duties which previously existed between such natural parent and child shall be and remain the same, subject, however, to the rights acquired by and the duties imposed upon the adopting parent by reason of the adoption.

(2) The term "child," as used in this chapter and section 5, chapter 1 of this title, shall refer to the parent-child relationship. (Code 1966, § 706; Code 1970, tit. 39, § 252.)

Power of district court to decree adoption of children. — Under Trust Territory law, district court may decree adoption of minor children. In re de Leon, 3 TTR 167 (1966).

Adoption of adults not provided for. — Trust Territory law does not provide for adoption of adult. In re de Leon, 3 TTR 167 (1966).

§ 253. Persons to be notified or consents to be obtained. — No adoption shall be granted without either the written consent of, or notice to, each of the known living legal parents who has not been adjudged insane or incompetent or has not abandoned the child for a period of six months, nor shall any adoption of a child of over the age of twelve years be granted without the consent of the child. (Code 1966, § 707; Code 1970, tit. 39, § 253; P.L. No. 4C-56, § 6.)

§ 254. Appearance of child; best interests of child to control. — No adoption shall be granted under this title without the child proposed for adoption appearing before the court, and the adoption shall be granted only if the court is satisfied that the interests of the child will be promoted thereby. (Code 1966, § 708; Code 1970, tit. 39, § 254.)

Cross Reference. — Adoption in Federated States of Micronesia, Part III, Title 39.

Natural mother cannot withdraw consent to adoption of child once decree has been entered. — In the absence of a clear

showing of fraud, duress or lack of jurisdiction in the court, the consent of a natural mother to the adoption of her child cannot be withdrawn after the decree has been entered. In re Adoption of Samuel, 5 TTR 420 (1971).

§ 255. Effect of decree. — After a decree of adoption has become absolute, the child adopted and the adopting parents shall hold towards each other the legal relation of parent and child and have all the rights and be subject to all the duties of that relationship. The natural parents of the adopted child are, from the time of adoption, relieved of all parental duties toward the child and all responsibilities for the child so adopted, and have no right over it. A child adopted under this title shall have the same rights of inheritance as a person adopted in accordance with recognized custom at the place where the land is situated in the case of real estate, and at the place where the decedent was a resident at the time of his death in the case of personal property. Where there is no recognized custom as to rights of inheritance of adopted children, a child adopted under this chapter shall inherit from his adopting parents the same as if he were the natural child of the adopting parents, and he may also inherit from his natural parents and kindred the same as if no adoption has taken place. (Code 1966, § 710; Code 1970, tit. 39, § 255.)

CHAPTER 5.

RECIPROCAL ENFORCEMENT OF SUPPORT.

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SUBCHAPTER I.

General Provisions.

§ 301. **Purposes.** — The purposes of this chapter are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto. (P.L. No. 4C-37, § 1.)

§ 302. **Definitions.** — For the purposes of this chapter:

(1) "Court" means the trial division of the High Court of the Trust Territory, and when the context requires means the court of any state as defined in a substantially similar reciprocal law.

(2) "Duty of support" means a duty of support whether imposed or impossible by law or by order, decree, or judgment of any court, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise, and includes the duty to pay arrearages of support past due and unpaid.

(3) "Governor" includes the High Commissioner of the Trust Territory and any person performing the functions of governor or the executive authority of any state covered by this chapter.

(4) "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

(5) “*Law*” includes both common and statutory law.

(6) “*Obligee*” means a person, including a state or political subdivision, to whom a duty of support is owed, or a person, including a state or political subdivision, that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial whether the person to whom a duty of support is owed is a recipient of public assistance.

(7) “*Obligor*” means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

(8) “*District attorney*” means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.

(9) “*Register*” means to file in the registry of foreign support orders.

(10) “*Registering court*” means any court of the Trust Territory in which a support order of a rendering state is registered.

(11) “*Rendering state*” means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

(12) “*Responding state*” means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. “*Responding court*” means the court in which the responsive proceeding is commenced.

(13) “*State*” includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(14) “*Support order*” means any judgment, decree, or order of support in favor of an obligee, whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered. (P.L. No. 4C-37, § 1.)

§ 303. Remedies of chapter in addition to those now existing. — The remedies herein provided are in addition to and not in substitution for any other remedies. (P.L. No. 4C-37, § 1.)

§ 304. Duties of support regardless of presence or residency. — Duties of support arising under the law of the Trust Territory, when applicable under this Code, bind the obligor present in the Trust Territory regardless of the presence or residence of the obligee. (P.L. No. 4C-37, § 1.)

SUBCHAPTER II.

Criminal Enforcement.

§ 351. Interstate rendition; authority of High Commissioner. — The High Commissioner of the Trust Territory may:

(1) Demand of the governor of another state the surrender of a person found in that state who is charged criminally in the Trust Territory with the failure to abide by an order of a court ordering him to provide for the support of any person; or

(2) Surrender on demand by the governor of another state a person found in the Trust Territory who is charged criminally in that state with failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this chapter apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled therefrom. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show

that the person whose surrender is demanded has fled from justice or that at the time of the commission of the crime said person was in the demanding state. (P.L. No. 4C-37, § 1.)

§ 352. Same; investigations of circumstances. — (1) Before making the demand upon the governor of another state for the surrender of a person charged criminally in the Trust Territory with the failure to abide by an order of a court ordering him to provide for the support of a person, the High Commissioner of the Trust Territory may require the Attorney General of the Trust Territory to satisfy him that at least sixty days prior thereto the obligee initiated proceedings for support under this chapter or that any such proceeding would be of no avail.

(2) If, under a substantially similar act, the governor of another state makes a demand upon the High Commissioner of the Trust Territory for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the High Commissioner may require the Attorney General to investigate the demand and to report to him whether proceedings for support have been initiated or would be effective. If it appears to the High Commissioner that a proceeding would be effective but has not been initiated, he may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If proceedings have been initiated, and the person demanded has prevailed therein, the High Commissioner may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the High Commissioner may decline to honor the demand if the person demanded is complying with the support order. (P.L. No. 4C-37, § 1.)

SUBCHAPTER III.

Civil Enforcement.

§ 401. Choice of law. — Duties of support applicable under this chapter are those imposed under the laws of any jurisdiction where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding jurisdiction during the period for which support is sought until otherwise shown. (P.L. No. 4C-37, § 1.)

§ 402. Rights of jurisdiction or political subdivision furnishing support. — If a state or a political subdivision thereof furnishes support to an individual obligee, it has the same right to initiate a proceeding under this chapter as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support. (P.L. No. 4C-37, § 1.)

§ 403. How duties of support enforced. — All duties of support, including the duty to pay arrearages, are enforceable by an action under this chapter, including a proceeding for contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor. (P.L. No. 4C-37, § 1.)

§ 404. Jurisdiction. — Jurisdiction of any proceeding under this chapter is vested in the trial division of the high court. (P.L. No. 4C-37, § 1.)

§ 405. Contents and filing of complaint for support. — (1) The complaint shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for

whom support is sought, and all other pertinent information and such information as may be required by the Trust Territory rules of civil procedure. The obligee may include in or attach to the complaint any information which may help in locating or identifying the obligor including a photograph of the obligor, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, and his Social Security number.

(2) The complaint may be filed in the appropriate court of any jurisdiction in which the obligee resides. The court shall not decline or refuse to accept and forward the complaint on the ground that it should be filed with some other court of this or any other jurisdiction where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement. (P.L. No. 4C-37, § 1.)

§ 406. Attorney General to represent obligee. — If the Trust Territory is acting as an initiating state, the Attorney General or his representative, upon the request of the court, shall represent the obligee in any proceeding under this chapter. (P.L. No. 4C-37, § 1.)

§ 407. Complaint on behalf of minor. — A complaint on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian ad litem. (P.L. No. 4C-37, § 1.)

§ 408. Duty of initiating court. — If the initiating court finds that the complaint sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property, it shall so certify and cause three copies of the complaint and its certificate and one copy of this chapter to be sent to the responding court. Certification shall be in accordance with the requirements of the initiating state. If the name and address of the responding court is unknown and the responding state has an information agency comparable to that established in the initiating state, it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court. (P.L. No. 4C-37, § 1.)

§ 409. Costs and fees. — An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee but it may direct that all fees and costs requested by the initiating court and incurred in the Trust Territory when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor or by the state or political subdivision thereof. These costs or fees do not have priority over amounts due to the obligee. (P.L. No. 4C-37, § 1.)

§ 410. Jurisdiction by arrest. — If a court of the Trust Territory believes that the obligor may flee, it may:

- (1) As an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or
- (2) As a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his

giving a bond in an amount set by the court to assure his appearance at the hearing. (P.L. No. 4C-37, § 1.)

§ 411. Information agency; efforts of Attorney General to locate obligors. — (1) The Attorney General's office is designated as the information agency under this chapter. It shall:

(a) Compile a list of the courts and their addresses in the Trust Territory having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar law;

(b) Maintain a register of such lists of courts received from other states and transmit copies thereof promptly to every court in the Trust Territory having jurisdiction under this chapter;

(c) Distribute copies of this chapter and any amendments thereto and a statement of their effective dates to all other state information agencies; and

(d) Forward to the court in the Trust Territory which has jurisdiction over the obligor or his property petitions, certificates, and copies of the act it receives from courts or information agencies of other states.

(2) If the Attorney General does not know the location of the obligor or his property in the Trust Territory, he shall use all means at his disposal to obtain this information, including but not limited to the examination of any official records, as he may deem appropriate. (P.L. No. 4C-37, § 1.)

§ 412. Duties of the court and officials of the Trust Territory as responding state; prosecution of case. — (1) After the responding court receives copies of the complaint, certificate, and act from the initiating court, the clerk of courts shall docket the case and notify the district attorney of his action.

(2) The district attorney shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of the Trust Territory to enable the court to obtain jurisdiction over the obligor or his property and shall request the clerk of courts to set a time and place for a hearing and give notice thereof to the obligor in accordance with law. (P.L. No. 4C-37, § 1.)

§ 413. Same; location of obligors. — (1) The district attorney on his own initiative shall use all means at his disposal to locate the obligor or his property, and if, because of inaccuracies in the complaint or otherwise, the court cannot obtain jurisdiction, the district attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended complaint from the initiating court.

(2) If the obligor or his property is not found in the district, and the district attorney discovers that the obligor or his property may be found in another district of the Trust Territory or in another state, he shall so inform the court. Thereupon the clerk of courts shall forward the documents received from the court in the initiating jurisdiction to a court in the other district or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this chapter apply to the recipient of the documents so forwarded. If the clerk of a court of the Trust Territory forwards documents to another court, he shall forthwith notify the initiating court.

(3) If the district attorney has no information as to the location of the obligor or his property, he shall so inform the initiating court. (P.L. No. 4C-37, § 1.)

§ 414. Continuance of case. — If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the court, upon request of either party, may

continue the case for further hearing and the submission of evidence by both parties by deposition or by appearing in person before the court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken. (P.L. No. 4C-37, § 1.)

§ 415. Waiver of privilege against self-incrimination and immunity from criminal prosecution. — If at the hearing the obligor is called for examination as an adverse party and he declines to answer upon the ground that his testimony may tend to incriminate him, the court may require him to answer, in which event he is immune from criminal prosecution with respect to matters revealed by his testimony, except for perjury committed in this testimony. (P.L. No. 4C-37, § 1.)

§ 416. Testimony of husband and wife. — Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter including marriage and parentage, the provisions of section 1 of title 7 of this Code and rule 28 of the Trust Territory rules of evidence notwithstanding. (P.L. No. 4C-37, § 1.)

§ 417. Rules of evidence. — In any hearing for the civil enforcement of this chapter the court is governed by the rules of evidence set forth in title 7 of this Code and in the Trust Territory rules of evidence, except as otherwise provided in this chapter. If the action is based on a support order issued by another court, a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity as set forth in section 421 of this chapter or to a defendant in an action or a proceeding to enforce a foreign money judgment. The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court. (P.L. No. 4C-37, § 1.)

§ 418. Orders of support; authorized; enforcement. — If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this chapter shall require that payments be made to the clerk of the court of the responding state.

The court and district attorney of any district of the Trust Territory in which the obligor is present or has property shall have the same powers and duties to enforce the order as have those of the district in which it was first issued. If enforcement is impossible or cannot be completed in the district in which the order was issued, the district attorney shall send a certified copy of the order to the district attorney of any district in which it appears that proceedings to enforce the order would be effective. The district attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order. (P.L. No. 4C-37, § 1.)

§ 419. Same; responding court to transmit copies to initiating court. — The responding court shall cause a copy of all support orders to be sent to the initiating court. (P.L. No. 4C-37, § 1.)

§ 420. Same; additional powers of responding court. — In addition to the foregoing powers, a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:

- (1) Require the obligor to furnish a cash deposit or a bond of a character and amount to be specified by the court to assure payment of any amount due;
- (2) Require the obligor to report personally and to make payments at specified intervals to the clerk of courts; and
- (3) Punish under the power of contempt the obligor who violates any order of the court. (P.L. No. 4C-37, § 1.)

§ 421. Paternity. — If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise the court may adjourn the hearing until the paternity issue has been adjudicated. (P.L. No. 4C-37, § 1.)

§ 422. Forwarding of payments and payment records by responding court. — A responding court has the following duties which may be carried out through the clerk of courts:

- (1) To transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise; and
- (2) To furnish to the initiating court upon request a certified statement of all payments made by the obligor. (P.L. No. 4C-37, § 1.)

§ 423. Receipt and disbursement of payments by initiating court. — An initiating court shall receive and disburse forthwith all payments made by the obligor or sent by the responding court. This duty may be carried out through the clerk of courts. (P.L. No. 4C-37, § 1.)

§ 424. Proceedings not to be stayed. — A responding court shall not stay the proceeding or refuse a hearing under this chapter because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other jurisdiction. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the complaint being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding. (P.L. No. 4C-37, § 1.)

§ 425. Application of payments made under orders of another court. — A support order made by a court of the Trust Territory pursuant to this chapter does not nullify and is not nullified by a support order made by a court of another state pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by a court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by a court of the Trust Territory. (P.L. No. 4C-37, § 1.)

§ 426. Jurisdictional effect of participation in proceeding. — Participation in any proceeding under this chapter does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding. (P.L. No. 4C-37, § 1.)

§ 427. Interdistrict application. — This chapter applies if both the obligee and the obligor are in the Trust Territory but in different districts. If the court of the district in which the complaint is filed finds that the complaint sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another district in the Trust Territory may obtain jurisdiction over the obligor or his property, the clerk of courts shall send the complaint and a certification of the findings to the court of the district in which the obligor or his property is found. The clerk of courts of the district receiving these documents shall notify the district attorney of their receipt. The district attorney and the court in the district to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for the Trust Territory as a responding state. (P.L. No. 4C-37, § 1.)

§ 428. Appeals. — If the Attorney General is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may:

- (1) Perfect an appeal to the proper appellate court if the support order was issued by a court of the Trust Territory, or
- (2) If the support order was issued in another state, cause the appeal to be taken in the other state. In either case, expenses of appeal may be paid on his order from funds appropriated for his office. (P.L. No. 4C-37, § 1.)

CHAPTER 6.

CHILD ABUSE.

Sec.	Sec.		
451. Declaration of policy.	455. Physician-patient	privilege	not
452. Definitions.		applicable.	
453. Reporting procedure.	456. Violations; penalties.		
454. Immunity of reporting persons from liability.			

§ 451. Declaration of policy. — It is the policy of the Trust Territory government to provide for the protection of children who have injuries inflicted upon them and who, in the absence of appropriate reports concerning their conditions and circumstances, may be further threatened or injured by the conduct of those responsible for their care and protection. (P.L. No. 7-131, § 1.)

§ 452. Definitions. — When used in this chapter, unless the specific content indicates otherwise:

(1) “*Child*” means any person under eighteen years of age.

(2) “*Abuse*” means any case in which a child exhibits evidence of skin bruising, bleeding, sexual molestation, burns, fracture of any bone, subdural hematoma, soft-tissue swelling, and such condition or death is not justifiably explained, or the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death may not be the product of an accidental occurrence.

(3) “*Person*” means any physician, dentist, including interns, health assistant, medex, nurse, practical nurse, schoolteacher or other school official, day care worker, peace officer or law enforcement official. (P.L. No. 7-131, § 2.)

§ 453. Reporting procedure. — Every person examining, attending, teaching or treating a child and having reason to believe that such child has had serious injury or injuries, either physical or mental, inflicted upon him or her as a result of abuse, shall report the matter promptly to the chief of police of the district involved; provided, that when attendance with respect to a child is pursuant to the performance of services as a member of the staff of a district hospital or a government medical facility in the district center of the administrative district, such staff member shall immediately notify the district director of health services or another person in charge who shall make the report forthwith. If the person attending a child is a schoolteacher or other school official he shall report such abuse to his supervisor or other person in charge of the school and such matter shall then be promptly reported by the latter to the chief of police. If the report is not made in writing in the first instance, it shall be reduced to writing by the maker thereof as soon as possible after it is initially made by telephone or otherwise, and shall contain the name and address of the child and his or her parents or other persons responsible for his or her care if known, the child’s age, the nature and extent of the child’s injuries, including any evidence of previous injuries, and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor. (P.L. No. 7-131, § 3.)

§ 454. Immunity of reporting persons from liability. — Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Likewise, any such participant shall have full

immunity with respect to any evidence, oral or written, or any other testimony which he or she might provide in any judicial proceeding resulting from such report. (P.L. No. 7-131, § 4.)

§ 455. Physician-patient privilege not applicable. — In any proceeding resulting from a report made pursuant to this chapter or in any proceeding where such a report or any contents thereof are sought to be introduced in evidence, such report or contents or any other fact or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege. (P.L. No. 7-131, § 5.)

§ 456. Violations; penalties. — Anyone knowingly and wilfully violating the provisions of this act shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. (P.L. No. 7-131, § 6.)