

Palau Legal

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Title 21 – Domestic Relations

TITLE 21 DOMESTIC RELATIONS

Chapter 1 General Provisions

§ 101. Proceedings for annulment, divorce, or adoption; petitions.

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§ 101. Proceedings for annulment, divorce, or adoption; petitions.

(a) All proceedings for annulment, divorce, or adoption shall be commenced by petition signed and sworn to by the petitioner or petitioners personally, except that the Court of Common Pleas may accept an oral petition under oath if it deems best.

(b) The petition shall set forth sufficient facts as to the residence of the parties to show jurisdiction.

(c) A petition for annulment or divorce shall, so far as practicable, include:

(1) The date and place of marriage of the parties;

(2) The cause for the annulment or divorce;

(3) The approximate date and place where the cause of annulment or divorce occurred if the cause consists of individual acts, otherwise sufficient details as to cause to identify with reasonable certainty the facts relied upon; and

(4) 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.

(d) Service of petitions filed under this section shall be made upon any respondent or respondents in the manner provided by law for service of complaints. In such cases, any respondent or respondents shall be accorded such time to file an answer to the petition as may be provided by law for filing an answer to a complaint.

Source

39 TTC § 2, § 2(3), divided into subsections and section modified.

Notes

Cabral v. Cabral, 2 ROP Intrm. 65 (1990).

§ 102. Same; appeal and review.

(a) All decrees for annulment, divorce, or adoption under this title shall be subject to appeal, and no such decree shall become absolute or affect the legal status of the parties until the period for appeal has expired without any appeal having been filed or until any appeal taken shall have been finally dispatched.

(b) Except as otherwise expressly provided by this title, annulment, divorce and adoption proceedings shall be governed by the provisions of law and the Courts of Republic of Palau Rules of Civil Procedure applicable to civil actions.

Source

(Code 1966, § 713.) 39 TTC § 3, modified.

§ 103. Same; local custom recognized.

Nothing contained in this title, except for the provisions of section 104 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.

Source

(Code 1966, § 714.) 39 TTC § 4.

Notes

Sbal v. Sbal (Tr. 1987) , app. dism'd, 2 ROP Intrm. 96 (1990).

Ketari v. Taro, 3 TTR 279 (1967).

Lornis v. Trust Territory, 2 TTR 114 (1959).

Yamada v. Yamada, 2 TTR 66 (1959).

Aisea v. Trust Territory, 1 TTR 245 (1955).

§ 104. Same; confirmation in accordance with recognized custom.

(a) When an annulment, divorce, or adoption has been effected in the Republic 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 Trial Division of the Supreme 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.

(b) 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 Republic, the court shall enter a decree confirming the annulment, divorce, or adoption. The court 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.

Source

(Code 1966, § 715; P.L. No. 4C-56, § 3.) 39 TTC § 5, divided into subsections and modified.

Notes

Mutong v. Mutong, 2 TTR 588 (1964).

In re Iyar, 2 TTR 331 (1962).

§ 105. Age of majority.

All persons, whether male or female, residing in the Republic, who shall have attained the age of 18 years shall be regarded as of legal age and their period of minority to have ceased.

Source

39 TTC § 6, modified.

Chapter 2

Marriage

§ 201. Marriage between two noncitizens or noncitizen and citizen; requisites of marriage contract.

§ 202. Same; license.

§ 203. Same; ceremony.

§ 204. Marriage between citizens.

§ 205. Records; certificates; register; forms.

§ 201. Marriage between 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 Republic, it shall be necessary that:

(a) the male at the time of contracting the marriage be at least 18 years of age and the female at least 16 years of age, and if the female is less than 18 years of age she must have the consent of at least one of her parents or her guardian;

(b) neither of the parties has a lawful spouse living; and

(c) a marriage ceremony be performed by a duly authorized person as provided in this chapter.

Source

(Code 1966, § 690.) 39 TTC § 51, modified.

§ 202. Same; license.

(a) The President or his designee is authorized to grant a license for marriage between two noncitizens or between a noncitizen and a citizen of the Republic. Upon the filing of an application for such a license, the President or his designee shall collect from the parties making the application the sum of \$100.00, to

be remitted to the National Treasury.

(b) In order to obtain a license to marry, the parties shall file with the President 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 President shall issue to the parties a license to marry.

(c) Nothing in this section shall be construed to prevent the issuance of a license to marry to two citizens of the Republic.

Source

(Code 1966, § 691.) 39 TTC § 52, 52(2) divided into new subsections (b) and (c), as amended by RPPL 3-16 § 1, modified.

§ 203. Same; ceremony.

The presence of at least two witnesses is required for the celebration of a marriage between two noncitizens or between a noncitizen and a citizen. The marriage ceremony shall be performed in the Republic. The marriage rite may be performed and solemnized by an ordained minister, a judge [or] justice, the President, or by any person authorized by law to perform marriages, upon presentation to him of a license to marry as prescribed in section 202 of this chapter. The person solemnizing a marriage may receive a fee to be stipulated by the parties, or the gratification tendered to him.

Source

(Code 1966, § 692.) 39 TTC § 53, modified.

Notes

Bracketed “[or]” read “of” in original PNC. Changed to reflect apparent intent.

§ 204. Marriage between citizens.

Marriage contracts between parties, both of whom are citizens of the Republic, solemnized in accordance with recognized custom, 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.

Source

(Code 1966, § 694.) 39 TTC § 55, modified.

§ 205. Records; certificates; register; forms.

(a) It shall be the duty of every person authorized to perform marriages:

(1) 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

(2) 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.

(b) Not later than 10 days after the ceremony, the person authorized to perform the marriage shall send a copy of the marriage certificate to the Clerk of Courts to be recorded in the marriage register.

(c) Forms issued by the President 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 of Courts with the copy required above in substantially the same form, and containing the same information as in the forms issued by the President.

Source

(Code 1966, § 693.) 39 TTC § 54, divided into subsections and modified.

Chapter 3

Annulment and Divorce

Subchapter I

General Provisions

§ 301. Competency of courts.

§ 302. Orders for custody, support and alimony.

§ 303. Effect of decree.

§ 301. Competency of courts.

An annulment or a divorce authorized by this chapter may be granted by any court within whose jurisdiction either of the parties has resided for three months immediately prior to the filing of the complaint.

Source

(Code 1966, § 702.) 39 TTC § 101, modified.

Notes

Cabral v. Cabral, 2 ROP Intrm. 65 (1990).

§ 302. 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.

Source

(Code 1966, § 704.) 39 TTC § 103.

Notes

Ngoriakl v. Gulibert, 16 ROP 105, 107 (2008).

Estate of Ngirausui, 5 ROP Intrm. 350, 350 (Tr. Div. 1996).

Cabral v. Cabral, 2 ROP Intrm. 65 (1990).

§ 303. 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.

Source

(Code 1966, § 705.) 39 TTC § 104.

Subchapter II

Annulment

§ 311. Authorized; grounds.

§ 312. Residency requirements.

§ 313. Legitimacy of children.

§ 311. 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.

Source

(Code 1966, § 695) 39 TTC § 151.

§ 312. Residency requirements.

No annulment shall be granted unless one of the parties shall have resided in the Republic for the three months immediately preceding the filing of the complaint.

Source

(Code 1966, § 696) 39 TTC § 152, modified.

§ 313. Legitimacy of children.

The children of a marriage annulled under this chapter shall be legitimate.

Source

(Code 1966, § 697) 39 TTC § 153, modified.

Subchapter III

Divorce

§ 331. Grounds.

§ 332. Residency requirements.

§ 333. Forgiveness as defense.

§ 334. Procurement or connivance as defense.

§ 335. Child support.

§ 331. Grounds.

Divorces from marriage may be granted under this chapter for the following causes and no other:

(a) adultery.

(b) 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.

(c) wilful desertion continued for a period of not less than one year.

(d) habitual intemperance in the use of intoxicating liquor or drugs continued for a period of not less than one year.

(e) 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.

(f) the insanity of either party where the same has existed for three years or more.

(g) the contracting by either party of leprosy.

(h) the separation of the parties for two consecutive years without cohabitation, whether or not by mutual consent.

(i) 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.

Source

(Code 1966, § 698.) 39 TTC § 201.

Notes

Dean v. Dean, 5 TTR 594 (1972).

Katindoy v. Katindoy, 5 TTR 412 (1971).

Ketari v. Taro, 3 TTR 279 (1967) .

Yamada v. Yamada, 2 TTR 66 (1959).

§ 332. Residency requirements.

No divorce shall be granted unless one of the parties shall have resided in the Republic for the two years immediately preceding the filing of the complaint.

Source

(Code 1966, § 699.) 39 TTC § 202, modified.

Notes

Cabral v. Cabral , 2 ROP Intrm. 65 (1990).

Hamrick v. Hamrick, 6 TTR 252 (1973).

Yang v. Yang, 5 TTR 427 (1971).

Katindoy v. Katindoy, 5 TTR 412 (1971).

§ 333. Forgiveness as defense.

(a) 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.

(b) Forgiveness is revoked, and the original ground for divorce is revived, if the party forgiven commits an act 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.

Source

(Code 1966, § 700.) 39 TTC § 203, divided into subsections and modified.

§ 334. 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.

Source

(Code 1966, § 701.) 39 TTC § 204.

§ 335. Child support.

(a) Any person legally married, either by law or in accordance with established custom, who causes such marriage to terminate, either on his own initiative or for any of the reasons enumerated in section 331, subsections (a), (b), (c), (d) or (i) of this title, shall provide support for each child of that marriage under 18 years of age, including offspring born of that union and children adopted legally or in accordance with established custom during the time of the marriage. The amount of money or the value of the goods for support shall be determined by a court of competent jurisdiction.

(b) Any biological parent of a child under 18 years of age shall provide support for that child unless the child is adopted legally or in accordance with established custom.

(c) If a child is too young to receive what is given for his support, then such support shall be given to the spouse or biological parent having custody of the child to use solely for the benefit of the child or to any other custodian selected by the court. Such custodian, as selected above, or the spouse or biological parent having custody of the child, shall be prohibited from using the support for his or her own benefit; such support is to be used solely for the benefit of the child.

(d) If a biological parent provides support for a child under this section, that parent shall have a corresponding right to visitation with the child.

(e) Nothing in this section shall nullify or alter any established custom for the payment of olmesumech or the provision of children's money (ududir ar ngalk), nor contradict the provisions of section 302 of this title.

Source

PDC § 402, divided into subsections and modified. Subsection (c) amended by RPPL 4-31 § 1.

Subsections (b) and (d) added by RPPL 4-31 § 1.

Notes

In Subsection (c), a comma was inserted between "custodian" and "as selected" by the Code Commission.

Estate of Ngirausui, 5 ROP Intrm. 350, 350 (Tr. Div. 1996).

Ngiraremiang v. Ngiramoulau, 4 ROP Intrm. 112, 117 (1993).Chapter 4

Adoption

§ 401. Competency of court.

§ 402. Adoption by decree.

§ 403. Persons to be notified or consents to be obtained.

§ 404. Consent of child over 12 required.

§ 405. Appearance of child.

§ 406. Best interests of the child to control.

§ 407. Effect of decree.

§ 408. Rights and duties of adopting and natural parents.

§ 409. Inheritance rights of adopted child.

§ 401. Competency of court.

An adoption authorized under this chapter may be granted by any court within whose jurisdiction the person or persons requesting the adoption reside or within whose jurisdiction the child resides.

Source

(Code 1966, § 709; P.L. No. 4C-56, § 5.) 39 TTC § 251, modified.

§ 402. Adoption by decree.

(a) 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. 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.

(b) The term “child,” as used in this chapter and in section 104 of this title, shall refer to the parent-child relationship.

Source

(Code 1966, § 706.) 39 TTC § 252, modified.

Notes

In re de Leon, 3 TTR 167 (1966).

§ 403. 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 (6) months.

Source

(Code 1966, § 707; P.L. No. 4C-56, § 6.) 39 TTC § 253, made into two sections and modified.

§ 404. Consent of child over 12 required.

Adoption of a child of over the age of twelve (12) years shall not be granted without the consent of the child.

Source

(Code 1966, § 707; P.L. No. 4C-56, § 6.) 39 TTC § 253, made into two sections and modified.

§ 405. Appearance of child.

No adoption shall be granted under this title without the child proposed for adoption appearing before the court.

Source

(Code 1966, § 708.) 39 TTC § 254, made into two sections and modified.

Notes

In re Adoption of Samuel, 5 TTR 420 (1971).

§ 406. Best interests of the child to control.

The adoption shall be granted only if the court is satisfied that the interests of the child will be promoted thereby.

Source

(Code 1966, § 708.) 39 TTC § 254, made into two sections and modified.

Notes

In re Adoption of Samuel, 5 TTR 420 (1971).

§ 407. 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.

Source

39 TTC § 255, divided into three sections and modified.

§ 408. Rights and duties of adopting and natural parents.

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.

Source

39 TTC § 255, divided into three sections and modified.

§ 409. Inheritance rights of adopted child.

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 had taken place.

Source

39 TTC § 255, divided into three sections and modified.

Notes

Drairoro v. Yangilmau, 14 ROP 18, 20, 23 (2006).

Arbedul v. Mokoll, 4 ROP Intrm. 189, 195 (1994).

Chapter 5

Reciprocal Enforcement of Support

Subchapter I

General Provisions

§ 501. Purposes.

§ 502. Definitions.

§ 503. Remedies of chapter in addition to those now existing.

§ 504. Duties of support regardless of presence or residency.

§ 501. 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 301.

§ 502. Definitions.

In this chapter:

- (a) “Court” means the Trial Division of the Supreme Court, and when the context requires means the court of any state as defined in a substantially similar reciprocal law.
- (b) “District attorney or Attorney General” 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.
- (c) “Duty of support” means a duty of support whether imposed or imposable 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.
- (d) “Initiating court” means the court in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.
- (e) “Initiating state” means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.
- (f) “Law” includes both common and statutory law.
- (g) “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.

(h) “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.

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

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

(k) “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.

(l) “Responding court” means the court in which the responsive proceeding pursuant to the proceeding in the initiating court is commenced.

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

(n) “State” includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory or any political entity that was formerly an administrative district of the Trust Territory, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(o) “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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 302, § 302(3) omitted since all references to “Governor” changed to “chief executive officer”; terms put in alphabetical order and section modified.

§ 503. 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 303.

§ 504. Duties of support regardless of presence or residency.

Duties of support arising under the law of the Republic, when applicable under this Code, bind the obligor present in the Republic regardless of the presence or residence of the obligee.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 304, modified.

Subchapter II

Criminal Enforcement

§ 521. Interstate rendition; authority of President.

§ 522. Same; investigations of circumstances.

§ 521. Interstate rendition; authority of President.

The President may:

(a) demand of the chief executive officer of another state the surrender of a person found in that state who is charged criminally in the Republic with the failure to abide by an order of a court ordering him to provide for the support of any person; or

(b) surrender on demand by the chief executive officer of another state a person found in the Republic 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.

Source (P.L. No. 4C-37, § 1.) 39 TTC § 351, modified.

§ 522. Same; investigations of circumstances.

(a) Before making the demand upon the chief executive officer of another state for the surrender of a person charged criminally in the Republic with the failure to abide by an order of a court ordering him to provide for the support of a person, the President may require the Attorney General of the Republic to satisfy him that at least 60 days prior thereto the obligee initiated proceedings for support under this chapter, or that any such proceeding would be of no avail.

(b) If, under a substantially similar Act, the chief executive officer of another state makes a demand upon the President for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the President 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 President 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.

(c) If proceedings have been initiated, and the person demanded has prevailed therein, the President may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the President may decline to honor the demand if the person demanded is complying with the support order.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 352, modified.

Subchapter III

Civil Enforcement

§ 541. Choice of law.

§ 542. Rights of jurisdiction or political subdivision furnishing support.

§ 543. How duties of support enforced.

§ 544. Jurisdiction.

§ 545. Contents and filing of complaint for support.

§ 546. Attorney General to represent obligee.

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§ 550. Jurisdiction by arrest.

§ 551. Information agency; efforts of Attorney General to locate obligors.

§ 552. Duties of the court and officials of the Republic as responding state; prosecution of case.

§ 553. Same; location of obligors.

§ 554. Continuance of case.

§ 555. Waiver of privilege against self-incrimination and immunity from criminal prosecution.

§ 556. Testimony of husband and wife.

§ 557. Rules of evidence.

§ 541. 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 401.

§ 542. 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 402.

§ 543. 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 403.

§ 544. Jurisdiction.

Jurisdiction of any proceeding under this chapter is vested in the Trial Division of the Supreme Court.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 404, modified.

§ 545. Contents and filing of complaint for support.

(a) 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 Courts of the Republic of Palau 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.

(b) 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 405, modified.

§ 546. Attorney General to represent obligee.

If the Republic 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 406, modified.

§ 547. 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 407.

§ 548. 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 408.

§ 549. 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 Republic 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 409, modified.

§ 550. Jurisdiction by arrest.

If a court of the Republic believes that the obligor may flee, it may:

(a) as an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or

(b) as a responding court, obtain the body of the obligor by appropriate process. There upon 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 410, modified.

§ 551. Information agency; efforts of Attorney General to locate obligors.

(a) The Attorney General's office is designated as the information agency under this chapter. It shall:

(1) 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;

(2) 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;

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

(4) 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.

(b) 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 411, modified.

§ 552. Duties of the court and officials of the Republic as responding state; prosecution of case.

(a) 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 Attorney General of his action.

(b) The Attorney General shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of the Republic 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 412, modified.

§ 553. Same; location of obligors.

(a) The Attorney General on his own initiative shall use all means at his disposal to locate the obligor or his property. If, because of inaccuracies in the complaint or otherwise, the court cannot obtain jurisdiction, the Attorney General 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.

(b) If the obligor or his property is not found in the Republic, and the Attorney General discovers that the obligor or his property may be found 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 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 Courts forwards documents to another court, he shall forthwith notify the initiating court.

(c) If the Attorney General has no information as to the location of the obligor or his property, he shall so inform the initiating court.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 413, modified.

§ 554. 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 or justice of the initiating court as a person before whom a deposition may be taken.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 414.

§ 555. 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 such event he is immune from criminal prosecution with respect to matters revealed by his testimony, except for perjury committed in this testimony.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 415, modified.

§ 556. 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 chapter 40 of Title 14 of this Code and rule 501 of the Courts of the Republic of Palau Rules of Evidence notwithstanding.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 416, modified.

§ 557. 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 chapter 40 of Title 14 of this Code and the Courts of Republic of Palau 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 574 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 417, modified.

Subchapter IV

Orders of Support

§ 571. Orders of support; authorized; enforcement.

§ 572. Same; responding court to transmit copies to initiating court.

§ 573. Same; additional powers of responding court.

§ 574. Paternity.

§ 575. Forwarding of payments and payment records by responding court.

§ 576. Receipt and disbursement of payments by initiating court.

§ 577. Proceedings not to be stayed.

§ 578. Application of payments made under orders of another court.

§ 579. Jurisdictional effect of participation in proceeding.

§ 580. Application between states in Trust Territory.

§ 581. Appeals.

§ 571. Orders of support; authorized; enforcement.

(a) 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.

(b) The court and district attorney or attorney general of any state in 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 state in the Trust Territory in which it was first issued. If enforcement is impossible or cannot be completed in the state in which the order was issued, the district attorney or attorney general shall send a certified copy of the order to the district attorney or attorney general of any state in the Trust Territory in which it appears that proceedings to enforce the order would be effective. The district attorney or attorney general 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 418, divided into subsections and modified.

§ 572. 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 419.

§ 573. 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. In particular, it may:

(a) 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;

(b) require the obligor to report personally and to make payments at specified intervals to the clerk of courts; and

(c) punish under the power of contempt the obligor who violates any order of the court.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 420, modified.

§ 574. 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 421, modified.

§ 575. 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:

(a) to transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise; and

(b) to furnish to the initiating court upon request a certified statement of all payments made by the obligor.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 422.

§ 576. Receipt and disbursal 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 423.

§ 577. Proceedings not to be stayed.

A responding court shall not stay the proceedings 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 424.

§ 578. Application of payments made under orders of another court.

A support order made by a court of the Republic 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 Republic.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 425, modified.

§ 579. 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 426.

§ 580. Application between states in Trust Territory.

This chapter applies if both the obligee and the obligor are in the Trust Territory but in different states of the Trust Territory. If the court of the state 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 state 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 state in which the obligor or his property is found. The clerk of courts of the state receiving these documents shall notify the district attorney or attorney general of their receipt. The district attorney or attorney general and the court in the state to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting as a responding state.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 427, modified.

§ 581. 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:

(a) perfect an appeal to the proper appellate court if the support order was issued by a court of the Republic, or

(b) 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.

Source

(P.L. No. 4C-37, § 1.) 39 TTC § 428, modified.

Chapter 6

Child Abuse

§ 601. Declaration of policy.

§ 602. Definitions.

§ 603. Reporting procedure.

§ 603.5. Failure of a mandatory reporter to report; penalties.

§ 604. Immunity of reporting persons from liability.

§ 605. Privilege not applicable.

§ 606. Special circumstance testimony.

§ 607. Statute of limitations exemption.

§ 608. Violations; penalties

§ 609. Confidential nature of identities of child victims and witnesses.

§ 601. Declaration of policy.

It is the policy of the National Government to provide for the protection of children who are subject to abuse, sexual abuse, or neglect and who, in the absence of appropriate reports concerning their conditions and circumstances, may be further abused, sexually abused or neglected by the conduct of those responsible for their care and protection.

Source

(P.L. No. 7-131, § 1.) 39 TTC § 451, as amended by RPPL 3-66 § 1(1).

§ 602. Definitions.

In this chapter, unless the specific content indicates otherwise:

(a) “Abuse” means any willful or negligent act or punishment which results in harm or threat of harm to the physical or mental health of a child which leads to consequences including, but not limited to, death, fractures, burns, bleeding, disfigurement, severe bruises, severe psychological or emotional trauma, or illness not explainable on the basis of a disorder or natural occurrence.

(b) “Child” means any person under sixteen (16) years of age.

(c) “Neglect” means any willful or negligent act which results in the failure to provide a child who is in the person’s custody, with adequate nutrition, medical care, clothing, shelter, proper supervision or other basic needs which results in the child’s physical or mental health being threatened or harmed.

(d) “Mandatory Reporter” means any physician, dentist, intern, health assistant, medex, nurse or practical nurse, any school teacher or other school official, any day care worker, any peace officer or law enforcement official, and any other person who may be authorized to provide for the care or well being of a child, including any person who has parental, custodial, or other legal custody or visitation right to the child suspected of being abused.

(e) “Should have known” means that a reasonable person would have believed that the child was suffering from child abuse.

(f) “Sexual Abuse” means any willful or negligent sexually related activity for the purpose of sexual gratification, pleasure, or profit by any person, with any minor under the age of eighteen (18) who is not the spouse of the perpetrator including, but not limited to: sexual intercourse, sodomy, masturbation, cunnilingus, fellatio, and fondling.

Source

(P.L. No. 7-131, § 2.) 39 TTC § 452, terms put in alphabetical order and section modified. Amended by RPPL 3-66, § 1(2). RPPL 7-55 § 2 amended subsections (b) and (e) and added subsections (f) and (g), modified. Amended by RPPL 8-32 § 2.

§ 603. Reporting procedure.

(a) Every person defined as a mandatory reporter who is responsible for examining, attending, teaching, [or] medically treating a child, or who has legal parental, custodial, or other legal visitation rights, and knows, or who should have known that such child has had a serious injury or injuries inflicted upon him or her as a result of abuse, sexual abuse or neglect, shall report the matter within forty-eight (48) hours to the Director of the Bureau of Public Safety, except when the report is to be made to a different person

under subsection (c) or (d). It is the intent of the Olbiil Era Kelulau that the inclusion of the term “should have known” is explicitly intended to encourage mandatory reporters to err on the side of reporting child abuse.

(b) If the report is not made in writing in the first instance, it shall be reduced to writing by the mandatory reporter within forty-eight (48) hours thereof. The report 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 for such abuse.

(c) When attendance with respect to a child is pursuant to the performance of services as a member of the staff of a hospital or a government medical facility, such staff member shall immediately notify the Director of the Bureau of Public Health or Clinical Services or their designees who shall make the report to the Attorney General’s Office within forty eight (48) hours of initial notification.

(d) If the person attending a child is a school teacher or other school official he shall report such abuse, sexual abuse, or neglect to his supervisor or other person in charge of the school and such matter shall be then be promptly reported by the latter to the Attorney General’s Office within forty eight (48) hours when the supervisor or other person in charge received initial report.

(e) After receiving a report of child abuse, sexual abuse or neglect the Attorney General’s Office shall investigate, prepare and finalize a criminal case report. The Attorney General shall have discretion as to which cases to file. Notwithstanding the above, the Attorney General shall keep a case file of all filed and non-filed cases and shall submit a yearly report to the Minister of Justice on child abuse cases filed or not filed. Whenever the Attorney General’s Office has probable cause to believe that a child is in danger of being abused or neglected, the Attorney General’s Office may cause the child to be placed in protective custody.

(f) An out-of-court statement made by a child under the age of twelve (12) years describing any act of sexual abuse or physical abuse performed with, on, or to the child by another is admissible in evidence at trial through the testimony of the person or persons to whom made if:

- (1) the child is available for cross-examination in the proceeding;
- (2) the court finds that the time, content, and circumstances of the statement and the reliability of the person to whom the statement is made provide sufficient indicia of reliability; and
- (3) the defendant has been given ten (10) days notice of the intention of the Republic to offer the statement, an opportunity to inspect the statement, and an opportunity to object to the statement’s admissibility after being informed of the time, place, and circumstances of the statement.

Source

(P.L. No. 7-131, § 3.) 39 TTC § 454. RPPL 3-66, § 1(3) added sections (a) and (d) and amended subsection (e). The entire section amended by RPPL 7-55 § 3, modified. Subsections (a) & (b) are amended by RPPL 8-32 § 2, modified.

§ 603.5. Failure of a mandatory reporter to report; penalties.

(a) Any person defined in this section as a mandatory reporter who either knew or who should have known an incident of child abuse or neglect was taking place, who is required by section 603 to report such abuse or neglect, and fails to do so, shall be guilty of a misdemeanor punishable by not more than one (1) year imprisonment, by a fine of one thousand dollars (\$1,000), or [both]. If a mandatory reporter intentionally conceals an incident or his failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the concealment or failure to report shall be a continuing offense until the offense is discovered.

(b) Any person defined as a mandatory reporter who resides in the same domicile or home as the child shall be, when abuse of a child is proven to have taken place in the home by the conviction of the abuser, presumed to have known or to should have known that such abuse was taking place and shall be guilty of a misdemeanor as specified in subsection (a) of this section, unless the mandatory reporter can establish by a preponderance of the evidence that:

(1) the mandatory reporter was unaware of the abuse;

(2) the mandatory reporter was also subject to abuse; or

(3) the mandatory reporter was living with the child in a hostile environment where so much abuse, violence, or emotional trauma took place that a reasonable person would believe the mandatory reporter was intimidated into silence.

Source

RPPL 8-32 § 2, modified.

Notes

The bracketed [both] in subsection (a) read “by both that imprisonment and fine” in the original legislation.

§ 604. 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.

Source

(P.L. No. 7-131, § 4.) 39 TTC § 454.

§ 605. 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 privilege as to communications, between husband and wife, between physician and patient, or of one spouse not to testify against, or be testified against by, the other spouse.

Source

(P.L. No. 7-131, 15.) 39 TTC § 455, as amended by RPPL 3-66, § 1(4).

Cross-reference

For rules of evidence promulgated by the Supreme Court pursuant to ROP Const., Art. X, § 14, and § 101 of Title 4 of this Code, see Courts of Republic [of] Palau Rules of Evidence (eff. December 23, 1983); for statutory provisions on evidence, see div. 5 of Title 14. Bracketed “[of]” missing from original cross-reference.

§ 606. Special circumstance testimony.

(a) Testimony Outside the Courtroom. On motion of the attorney for the government in a criminal proceeding alleging of sexual abuse or physical abuse performed with, or on a child age twelve (12) or younger, the Court may, to minimize the emotional trauma to the child victim, order that the child’s testimony be taken in a room other than the courtroom, with only the judge, attorneys, the defendant, necessary court personnel, and an adult attendant for the child present.

(b) Testimony Outside the Physical Presence of the Defendant. In any criminal proceeding alleging acts of sexual abuse or physical abuse performed with or on a child age twelve (12) or younger, either party may request and the Court may order that the child’s testimony be taken in a room outside the courtroom with only judge, attorneys, necessary court personnel, and an adult attendant for the child present. Such an order shall be predicated on a finding by a preponderance of the evidence that the child testifying in the defendant’s physical presence may cause the child serious emotional trauma, serious emotional distress, or unduly impair the child’s ability to testify. The taking of the child’s testimony shall be televised via one-way closed circuit television to the defendant in the courtroom, provided that the defendant is in simultaneous two-way audio contact with his or her attorney at all times. In determining whether to allow testimony outside the physical presence of the defendant, the Court may consider the following evidence:

- (1) the testimony of parents;
- (2) the testimony of relatives;
- (3) the testimony of guardians;
- (4) the testimony of investigators for the government;
- (5) the testimony of expert witnesses;
- (6) the Court’s own in camera examination of the child; and
- (7) other information in the Court’s discretion.

Source

(P.L. No. 7-131, § 6.) 39 TTC 1456, as amended by RPPL 3-66 § 1(5). Amended in its entirety by RPPL 7-55 § 4, modified. This section was originally titled “Violations; penalties.”

§ 607. Statute of limitations exemption.

Prosecution of an offense involving alleged acts of sexual abuse of a child under the age of sixteen (16) shall be commenced within three (3) years after the victim’s twenty first (21st) birthday, or after the date the offense is reported to the Office of the Attorney General, whichever is earlier. This section shall not be construed to revive any causes of action which are time-barred as of the effective date of this chapter. However, in all instances in which causes of action have not run as of the effective date of this chapter,

such causes of action shall be subject to a statute of limitations period that extends three (3) years after the victim's twenty first (21st) birthday, or after the date the offense is reported to the Office of the Attorney General, whichever is earlier.

Source

RPPL 7-55 § 5, modied.

Section 608. Violations; penalties.

(a) Every person who shall abuse or neglect a child shall be guilty of a felony and upon conviction shall be fined not less than one thousand dollars (\$1,000), or imprisoned for not more than five (5) years in prison, or both.

(b) Any person who is found guilty of sexual abuse shall be fined not less than five thousand dollars (\$5,000) and not more than fifty thousand dollars (\$50,000), fifty percent (50%) of which shall be awarded to the victim or guardian or next-of-kin, and / or imprisoned for six (6) months to twenty-five (25) years, or both, with the sentence and fine to be determined by the court based on the totality of circumstances.

(c) The name and address of convicted sexual abuse / offense violators shall be published by the Attorney General's Office, not less than forty-eight (48) hours after release from custody of the Bureau of Public Safety if the offender is in full-time custody, or not less than forty-eight (48) hours [after] conviction if the offender is in part-time custody or may otherwise interact with the public, as in a work release or other program.

(d) Any person or responsible official who knowingly and willfully refuses or fails to report cases of child abuse or neglect to the Attorney General's Office or to the Director of Public Health or Director of Clinical services shall be guilty of the crime of Accessory and is punishable by imprisonment not exceeding one (1) year or by fine not exceeding one thousand dollars (\$1,000), or by both.

(e) The Attorney General may bring actions to recover civil penalties pursuant to this chapter. From the amounts collected for each case, an amount equal to the costs of pursuing the action shall be deposited in the ROP National Treasury, and the remainder shall be deposited in the Victims of Crime Assistance Fund, which is hereby created in the National Treasury. Amounts deposited in the Victims of Crime Assistance Fund may be used only for the purpose of child advocacy programs, prevention of child abuse and spouse abuse programs upon appropriation by the Olbiil Era Kelulau.

Source

RPPL 7-55 § 6 using the title formally used for § 606, modified.

Notes

In the original legislation the first line of subsection (b) read "Any person who is found guilty of sexual abuse ~~shall serve a sentence and/or be fined and upon conviction shall~~ Please note that the strikeout portion was deleted by the House Legal Counsel, member of the Code Commision. Also in subsection (c) the bracketed [after] is also added by the House Legal Counsel.

§ 609. Confidential nature of identities of child victims and witnesses.

In all matters proceeding under this chapter the names of child victims and witnesses shall be indicated by initials only in all documents filed with the Court or in any document obtainable by the public. Courts maintain the discretion to seal any document, exhibit, or case file sua sponte. If the Court seals a document or exhibit after it has already been included in the public file, the clerk shall remove the

document from both the paper public files and, if applicable, electronic files, as soon as the order sealing the document is entered. Courts should assess whether privacy or law enforcement concerns, or other good cause, justify filing the document under seal. In all matters proceeding under this section or in files maintained by the Attorney General's Office, investigators, counsel, Court, or responsible officials related to matters proceeding under this chapter, the names of child victims and witnesses, and relevant documents and exhibits, shall be made available only as needed to report, investigate, prosecute, or defend the matter. Any person who discloses such information intentionally, willfully, knowingly, or recklessly, beyond what is necessary to report, investigate, prosecute, or defend the matter, or to treat or examine the victim, shall be guilty of the crime of disclosure of confidential information and may be fined up to one thousand dollars (\$1,000).

Source

RPPL 7-55 § 7, modified.

Chapter 7

Palau National Framework on Early Childhood

§ 701. Short title.

§ 702. Purpose.

§ 703. Definitions.

§ 704. Establishment of a Palau National Framework on Early Childhood Council.

§ 705. Powers, duties and functions of the National Framework on Early Childhood Council.

§ 706. Monitoring, Reporting and Evaluation by the Ministry of Health.

§ 701. Short title.

This chapter may be cited as the "Palau National Framework on Early Childhood".

Source

RPPL 8-3 § 1.

Notes

RPPL 8-3 § 2 reads: Public policy; legislative findings and history.

The Olbiil Era Kelulau makes the following findings:

(a) The Olbiil Era Kelulau recognizes that it is the obligation of the National Government to develop and provide an integrated system of services for all children.

(b) The promotion and implementation of the International Convention on the Rights of the Child will facilitate optimal development of all children.

(c) As a member of the United Nations, the Republic of Palau has pledged to work to achieve the Millennium Development Goals by 2015 and a framework for a national comprehensive system addressing issues of early childhood development.

(d) The Republic of Palau has pledged to prioritize Early Childhood Education as one of the strategies for Education for All.

(e) As a member of the United Nations, the Republic of Palau has pledged to prioritize the World Fit for Children Goal of providing quality education through working to "expand and improve comprehensive early childhood care and education for girls and boys, especially for the most vulnerable and disadvantaged children."

(f) For the best interests of the child, the leaders of our government are committed to supporting the well-being of all children, whether within the family, the community, or the nation.

(g) Research has shown that early comprehensive services for children lead to better health, education

and development.

(h) There is a need to establish and implement national policies and programs to ensure the enhancement of our children's physical, mental, emotional, social, cultural and spiritual development, especially through enabling a safe and healthy living environment that is conducive to a child's education.

(i) There is a need to establish national health indicators for children.

(j) An investment for children today will decrease future health care costs, increase chance for school success, and reduce later societal costs in the Republic.

§ 702. Purpose.

This chapter shall be construed and applied to promote its underlying purposes and policies.

The purposes and policies of this chapter are as follows:

(a) to develop and implement quality services to all children, including children with special needs, by creating a nationwide early childhood comprehensive system based on a collaborative agreement between community-based organizations, government agencies and interagency support groups;

(b) to improve the health and education of children in the Republic of Palau;

(c) to increase family knowledge, skills and participation in activities that prevent illness and promote health as well as activities that facilitate education, especially in early childhood;

(d) to protect children from any means of exploitation and other vulnerabilities;

(e) to provide access to a continuum of comprehensive, high quality early childhood programs that meet standards established by the United States Government, the Republic of Palau Government, and international organizations, promote school readiness, and address the needs of the child and family, which may include access to services for families with children with special needs;

(f) to create affordable options for high quality early childhood care, health and education services that are designed flexibly to meet the various needs of families; and

(g) to ensure smooth and effective transition from early childhood to primary school.

Source

RPPL 8-3 § 3.

§ 703 Definitions.

(a) "Council" means the Palau National Framework on Early Childhood Council.

(b) "Early Childhood" means the years from birth through age 7.

(c) "Transition year" means the earliest year of primary education, for a child aged 5 to 7.

(d) "Child" means a person who has not reached the age of majority as defined in 21 PNC § 105.

(e) "Child with Special Needs" means any disabled child entitled to special assistance appropriate to his or her condition under Article 23, § 2 of the [International] Convention on the Rights of the Child.

(f) "Minister" means the Minister of Health or person designated to compile information, prepare reports, or perform any functions required or permitted under this chapter.

(g) "Health" means the state of optimal physical, mental, social and spiritual well-being, and not merely the absence of disease and infirmity.

(h) "Family" means a group consisting of parents and their children. It also means a group of persons connected by blood, by affinity, or by law.

(i) "Development" means the process of growth and differentiation.

(j) "Early Childhood Comprehensive System" means an integrated and evidence-based and community-based program that employs a variety of effective approaches to enhance a child's early growth and development, which includes but is not limited to early learning/literacy and other quality experiences.

(k) "Palau national framework on early childhood" means a framework for the education and care of all children within the Republic of Palau, which shall include, but not be limited to, providing a formal structured educational environment that uses all available resources within the Republic of Palau.

Source

RPPL 8-3 § 4, modified.

Notes

The bracketed [International] in subsection (e) was added by the Code Commission (see House Joint Resolution No. 4-81-11).

§ 704. Establishment of a Palau National Framework on Early Childhood Council.

(a) There is hereby established an entity called the Palau National Framework on Early Childhood Council, hereinafter referred to as the "Council."

(b) Members of the Council shall include the following:

(1) two (2) representatives of the Bureau of Public Health of the Ministry of Health, appointed by the Minister of Health, one of whom shall be from the Family Health Unit of the Bureau of Public Health;

(2) one (1) representative of the Ministry of Education, appointed by the Minister of Education, who shall be from the Special Education Program;

(3) one (1) representative of the Palau Community College, appointed by the President of that institution;

(4) one (1) representative of the Palau Community Action Agency, appointed by the Executive Director of that organization, who shall be from the Head Start Program;

(5) one (1) representative of the Ministry of Community and Cultural Affairs, appointed by the Minister of Community and Cultural Affairs;

(6) one (1) representative of Mechesil Belau; and

(7) one (1) representative of Rubekul Belau.

(c) Each member of the Council shall execute and adhere to a collaborative agreement that defines the role and organization of the collaborative groups in the council.

(d) The term of the members of the Palau National Framework on Early Childhood Council shall be provided for in its rules and regulations.

Source

RPPL 8-3 § 5, modified.

§ 705. Powers, duties and functions of the National Framework on Early Childhood Council.

(a) The Palau National Framework on Early Childhood Council shall have the following powers, duties and functions:

(1) establish the basic guidelines and procedures for the implementation of Palau National Framework on Early Childhood;

(2) develop a plan for a comprehensive and unified system of early childhood care for the Republic of Palau;

(3) conduct a periodic survey and evaluation of early care programs;

(4) coordinate and communicate regularly and provide recommendations to the Ministry of Health and all other collaborative agencies;

(5) meet at least four times in the year following enactment of this chapter;
and

(6) shall within one year of enactment of this chapter submit to both houses of the Olbiil Era Kelulau a report on the guidelines, plans, and surveys. The report shall include recommendations for legislation and corresponding funding requirements.

Source

RPPL 8-3 § 6.

§ 706. Monitoring, reporting and evaluation by Ministry of Health.

(a) The Ministry of Health shall designate an existing entity to serve as the monitoring agency of the Palau National Framework on Early Childhood Council.

(b) The Ministry of Health shall design an internal monitoring and reporting system that allows continuous feedback and focus on quality improvement of the various components within the Palau National Framework on Early Childhood.

(c) The essential purpose is to test the system:

(1) to ensure that it works in a timely and adequate manner;

(2) to identify where changes may be necessary;

(3) to measure accountability, efficiency and efficacy of the system; and

(4) to provide decision makers and stakeholders with data and reports that will support their abilities to make the best decisions possible for the children and families in the Republic of Palau.

(d) The Ministry of Health may contract an external evaluator to assess the progress of the programs within the Palau National Framework on Early Childhood.

Source

RPPL 8-3 § 7.

Notes

In RPPL 8-3 there is no section 8. Sections are numbered from 1 to 7, skipped 8, and ends at section 9.

Chapter 8

Offenses Against the Family and Against Incompetents

Subchapter I

General Offenses

§ 801. Short title.

§ 802. Definitions.

§ 803. Endangering the welfare of a minor in the first degree.

§ 804. Endangering the welfare of a minor in the second degree.

§ 805. Endangering the welfare of an incompetent person.

§ 806. Custodial interference in the first degree.

§ 807. Custodial interference in the second degree.

§ 808. Abuse of family or household members; penalty.

§ 809. Harassment by stalking.

§ 810. Customary or traditional reconciliation; no bar to criminal prosecution.

§ 801. Short title.

This chapter shall be known and may be cited as the “Palau Family Protection Act.”

Source

RPPL 8-51 § 1, modified.

Notes

All bracketed [Subchapter] in this Chapter read [Part I and Part II] in the original legislation and were changed to “Subchapter” to conform with the Code format.

RPPL 8-51 Section 2 reads: Legislative Findings. The Olbiil Era Kelulau finds and declares that: family violence, is a serious crime against society; the number of people in Palau who are regularly abused by family members is unacceptably high; a significant number of women who are assaulted are pregnant; victims of family violence comes from all social and economic backgrounds and ethnic groups; spousal abuse is often accompanied by child abuse; and that children, even when they are not themselves physically assaulted, can suffer deep and lasting emotional effects from exposure to abuse and violence within a family. Furthermore, family violence is not limited to just the better known physical violence, but can also be emotional, psychological, and spiritual. It is therefore the intent of the Olbiil Era Kelulau to ensure the victims of family violence receive the maximum protection under the law.

The Olbiil Era Kelulau further finds and declares that, even though many of the existing criminal statutes are applicable to acts of family violence, this Family Protection Act will beneficially re-focus law

enforcement specifically on family violence and help to improve the Republic's ability to respond to the needs of family violence victims.

§ 802. Definitions.

In this [subchapter], unless a different meaning plainly is required:

- (a) "Bodily injury" means physical pain, illness, or any impairment of physical condition.
- (b) "Dating relationship" means a romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature, but does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context.
- (c) "Incompetent person" means a person who because of disease, disorder or defect is unable to care for himself or herself.
- (d) "Minor" means a person less than eighteen years of age.
- (e) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
- (f) "Substantial bodily injury" means bodily injury which causes:
 - (1) A major avulsion, laceration, or penetration of the skin;
 - (2) A burn of at least second degree severity;
 - (3) A bone fracture;
 - (4) A serious concussion; or
 - (5) A tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.

Source

RPPL 8-51 § 3[800], modified.

§ 803. Endangering the welfare of a minor in the first degree.

(a) Except as provided in subsection (b) below, a person commits the offense of endangering the welfare of a minor in the first degree if, having care or custody of a minor, the person:

- (1) Intentionally or knowingly allows another person to inflict serious or substantial bodily injury on the minor; or
- (2) Intentionally or knowingly causes or permits the minor to inject, ingest, inhale, or otherwise introduce into the minor's body any controlled substance listed in 34 PNC Chapter 31 that has not been prescribed by a physician for the minor.

(b) It shall be a defense to prosecution under 21 PNC sections 803(a)(1) if, at the time the person allowed another to inflict serious or substantial bodily injury on a minor, the person reasonably believed the person would incur serious or substantial bodily injury in acting to prevent the infliction of serious or substantial bodily injury on the minor.

(c) Endangering the welfare of a minor in the first degree is a felony and upon conviction thereof shall be imprisoned for a period of not more than five (5) years, or fined up to ten-thousand dollars (\$10,000), or both.

Source

RPPL 8-51 § 3[801], modified.

§ 804. Endangering the welfare of a minor in the second degree.

(a) Except as provided in 21 PNC section 803(b) above, a person commits the offense of endangering the welfare of a minor in the second degree if, having care or custody of a minor, the person:

(1) Recklessly allows another person to inflict serious or substantial bodily injury on the minor; or

(2) Recklessly causes or permits the minor to inject, ingest, inhale, or otherwise introduce into the minor's body any controlled substance listed in 34 PNC Chapter 31 that has not been prescribed by a physician for the minor.

(b) A person commits the offense of endangering the welfare of a minor in the second degree if, being a parent, guardian, or other person whether or not charged with the care or custody of a minor, the person knowingly endangers the minor's physical or mental welfare by violating or interfering with any legal duty of care or protection owed such minor.

(c) Endangering the welfare of a minor in the second degree is a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one (1) year, or fined up to one-thousand dollars (\$1,000), or both.

Source

RPPL 8-51 § 3[802], modified.

§ 805. Endangering the welfare of an incompetent person.

(a) A person commits the offense of endangering the welfare of an incompetent person if he or she knowingly acts in a manner likely to be injurious to the physical or mental welfare of a person who is unable to care for himself or herself because of physical or mental disease, disorder, or defect.

(b) Endangering the welfare of an incompetent person is a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one (1) year, or fined up to one-thousand dollars (\$1,000), or both.

Source

RPPL 8-51 § 3[803], modified.

§ 806. Custodial interference in the first degree.

(a) A person commits the offense of custodial interference in the first degree if:

(1) The person:

(A) Intentionally or knowingly violates a court order issued pursuant to 21 PNC section 302, or intentionally or knowingly takes, entices, conceals, or detains the minor from any other person who has a right to custody pursuant to a court order, judgment, or decree; and

(B) Removes the minor from the Republic of Palau;

(2) The person intentionally or knowingly takes, entices, conceals, or detains a minor less than twelve years old from that minor's lawful custodian, knowing that the person had no right to do so; or

(3) The person, in the absence of a court order determining custody or visitation rights, intentionally or knowingly takes, detains, conceals, or entices away a minor with the intent to deprive another person or a public agency of their right to custody, and removes the minor from the Republic of Palau.

(b) It is an affirmative defense to a prosecution under this section that the person had "good cause" for the violation of a court order for the taking, detaining, concealing, or enticing away of the minor, or for removing the minor from the Republic of Palau; provided that the person asserting the affirmative defense filed a report with the clerk of the court detailing the whereabouts of the minor, the person who took, enticed, detained, concealed, or removed the minor or child, and the circumstances of the event as soon as the filing of the report was practicable; and provided further that the person asserting the affirmative defense also filed a request for a custody order as soon as the filing of the request was practicable.

As used in this section, "good cause" means a good faith and reasonable belief that the taking, detaining, concealing, enticing away, or removing of the minor is necessary to protect the minor from immediate bodily injury.

(c) The identity and address of the person reporting under subsection (b) above shall remain confidential unless the information is released pursuant to a court order.

(d) Custodial interference in the first degree is a felony and upon conviction thereof shall be imprisoned for a period of not more than five (5) years, or fined up to ten-thousand dollars (\$10,000), or both.

Source

RPPL 8-51 § 3[804], modified.

Notes

Numbering subsections 1 to 4 in the original legislation are re-lettered to conform with the code format. § 807. Custodial interference in the second degree.

(a) A person commits the offense of custodial interference in the second degree if:

(1) The person intentionally or knowingly takes, entices, conceals, or detains a minor knowing that the person has no right to do so; or

(2) The person intentionally or knowingly takes, entices, conceals, or detains from lawful custody any incompetent person, or other person entrusted by authority of law to the custody of another person or an institution.

(b) For purposes of this section, an "incompetent person" means a person who because of disease, disorder or defect is unable to care for himself or herself.

(c) Custodial interference in the second degree is a misdemeanor, if the minor or incompetent person is taken, enticed, concealed, or detained within the Republic of Palau, and upon conviction thereof shall be imprisoned for a period of not more than one (1) year, or fined up to one-thousand dollars (\$1,000), or both. If the minor or incompetent person is taken, enticed, concealed, or detained outside of the Republic

of Palau under this section, custodial interference in the second degree is a felony and upon conviction thereof shall be imprisoned for a period of not more than five (5) years, or fined up to ten-thousand dollars (\$10,000), or both.

Source

RPPL 8-51 § 3[805], modified.

Notes

Numbering subsections 1 to 3 in the original legislation are re-lettered to conform with the code format. § 808. Abuse of family or household members; penalty.

(a) It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (d) of this section. The police, in investigating any complaint of abuse of a family or household member, upon request, may transport the abused person to a hospital or safe shelter.

For the purposes of this section, “family or household member” means spouses, former spouses, persons in a dating relationship, persons who have a child in common, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit.

(b) Any police officer, with or without a warrant:

(1) may arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member and that the person arrested is guilty thereof; or

(2) shall arrest a person if the officer has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member and that the person arrested is guilty thereof, and the officer has reasonable grounds to believe the physical abuse is occurring, or has occurred, in the presence of or within five hundred feet of a minor child or children.

(c) A police officer who has reasonable grounds to believe that the person is physically abusing, or has physically abused, a family or household member shall prepare a written report.

(d) Any police officer, with or without a warrant, may take the following course of action where the officer has reasonable grounds to believe that there was physical abuse or harm inflicted by one person upon a family or household member, regardless of whether the physical abuse or harm occurred in the officer’s presence:

(1) The police officer may make reasonable inquiry of the family or household member upon whom the officer believes physical abuse or harm has been inflicted and other witnesses as there may be;

(2) Where the police officer has reasonable grounds to believe that there is probable danger of further physical abuse or harm being inflicted by one person upon a family or household member, the police officer lawfully may order the person to leave the premises for a period of separation of twenty-four hours, during which time the person shall not initiate any contact, either by telephone or in person, with the family or household member; provided that the person is allowed to enter the premises with police escort to collect any necessary personal effects;

(3) Where the police officer makes the finding referred to in paragraph (2) above and the incident occurs after 12:00 p.m. on any Friday, or on any Saturday, Sunday, or legal holiday, the order to leave the premises and to initiate no further contact shall commence immediately and be in full force, but the twenty-four hour period shall be enlarged and extended until 4:30 p.m. on the first day following the weekend or legal holiday;

(4) All persons who are ordered to leave as stated above shall be given a written warning citation stating the date, time, and location of the warning and stating the penalties for violating the warning. A copy of the warning citation shall be retained by the police officer and attached to a written report that shall be submitted in all cases. A third copy of the warning citation shall be given to the abused person; and

(5) If the person so ordered refuses to comply with the order to leave the premises or returns to the premises before the expiration of the period of separation, or if the person so ordered initiates any contact with the abused person, the person shall be placed under arrest for the purpose of preventing further physical abuse or harm to the family or household member.

(e) Abuse of a family or household member and refusal to comply with the lawful order of a police officer under subsection (d) above are misdemeanors and the person shall be sentenced as follows:

(1) For the first offense the person shall serve a minimum jail sentence of forty-eight hours; and

(2) For a second offense that occurs within one year of the first conviction, the person shall serve a minimum jail sentence of thirty days.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to 18 PNC Chapter 6. The court may stay the imposition of the sentence if special circumstances exist. The court shall make findings as to the special circumstances on the record.

(f) Whenever a court sentences a person pursuant to subsection (e), it also shall require that the offender undergo any available domestic violence intervention programs ordered by the court. However, the court may suspend any portion of a jail sentence, except for the mandatory sentences under subsection (e)(1) and (2) above, upon the condition that the defendant remain arrest-free and conviction-free or complete court-ordered intervention.

(g) For a third or any subsequent offense that occurs within two (2) years of a second or subsequent conviction, the offense shall be a felony and upon conviction thereof shall be imprisoned for a period of not more than five (5) years, or fined up to ten-thousand dollars (\$10,000), or both.

(h) Where the physical abuse consists of intentionally or knowingly impeding the normal breathing or circulation of the blood of the family or household member by applying pressure on the throat or the neck, abuse of a family or household member is a felony and upon conviction thereof shall be imprisoned for a period of not more than five (5) years, or fined up to ten-thousand dollars (\$10,000), or both.

(i) Any police officer who arrests a person pursuant to this section shall not be subject to any civil or criminal liability; provided that the police officer acts in good faith, upon reasonable belief, and does not exercise unreasonable force in effecting the arrest.

(j) This section shall not preclude the physically abused or harmed family or household member from pursuing any other remedy under law or in equity.

(k) When a person is ordered by the court to undergo any domestic violence intervention, that person shall provide adequate proof of compliance with the court's order. The court shall order a subsequent hearing at which the person is required to make an appearance, on a date certain, to determine whether the person has completed the ordered domestic violence intervention. The court may waive the subsequent hearing and appearance where a court officer has established that the person has completed the intervention ordered by the court.

Source

RPPL 8-51 § 3[806], modified.

§ 809. Harassment by stalking.

(a) A person commits the offense of harassment by stalking if, with intent to harass, annoy, or alarm another person, or in reckless disregard of the risk thereof, that person engages in a course of conduct involving pursuit, surveillance, or nonconsensual contact upon the other person on more than one occasion without legitimate purpose.

(b) A person convicted under this section may be required to undergo a counseling program as ordered by the court.

(c) For purposes of this section, "nonconsensual contact" means any contact that occurs without that individual's consent or in disregard of that person's express desire that the contact be avoided or discontinued. Nonconsensual contact includes direct personal visual or oral contact and contact via telephone, facsimile, or any form of electronic communication, defined as "any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system, including electronic mail transmission."

(d) Harassment by stalking is a misdemeanor and upon conviction thereof shall be imprisoned for a period of not more than one (1) year, or fined up to one-thousand dollars (\$1,000), or both. For a second offense that occurs within one (1) year of the first conviction, the person shall serve a minimum jail sentence of not less than thirty (30) days.

(e) For a third or any subsequent offense that occurs within five years of a second or subsequent conviction, the offense shall be a felony and upon conviction thereof shall be imprisoned for a period of not more than five (5) years, or fined up to ten-thousand dollars (\$10,000), or both.

Source

RPPL 8-51 § 3[807], modified.

§ 810. Customary or traditional reconciliation; no bar to criminal prosecution.

Nothing in this chapter shall preclude customary or traditional reconciliation. However, resolution of the matter through customary or traditional reconciliation shall not preclude or interfere with the institution of criminal charges and prosecution for violation of any offense under this Chapter. The Office of the Attorney General, or any other agency charged with the duty of law enforcement, shall institute a "no drop" policy in the filing and prosecution of cases involving domestic abuse.

Source

RPPL 8-51 § 3[808], modified.

Subchapter II

Domestic Abuse Restraining Orders and Protective Orders

§ 821. Definitions.

§ 822. Court jurisdiction.

§ 823. Order for protection.

§ 824. Temporary restraining order.

§ 825. Period of order; hearing.

§ 826. Protective order; additional orders.

§ 827. Effective date.

§ 828. Notice of Order.

§ 829. Assistance of police in service or execution.

§ 830. Right to apply for relief.

§ 831. Modification of order.

§ 832. Copy to law enforcement agency.

§ 833. Violation of an order for protection.

§ 834. Severability clause.

§ 821. Definitions.

As used in this [subchapter]:

(a) “Dating relationship” means a romantic, courtship, or engagement relationship, often but not necessarily characterized by actions of an intimate or sexual nature, but does not include a casual acquaintanceship or ordinary fraternization between persons in a business or social context.

(b) “Domestic abuse” means:

(1) Physical harm, bodily injury, assault, or the threat of imminent physical harm, bodily injury, or assault, extreme psychological abuse or malicious property damage between family or household members; or

(2) Any act that would constitute an offense under 21 PNC § 806, or under 17 PNC Chapter 28 committed against a minor family or household member by an adult family or household member.

(c) “Extreme psychological abuse” means an intentional or knowing course of conduct directed at an individual that seriously alarms or disturbs consistently or continually bothers the individual, and that serves no legitimate purpose; provided that such course of conduct would cause a reasonable person to suffer extreme emotional distress.

(d) “Family or household member” means spouses, former spouses, persons who have a child in common, parents, children, persons related by consanguinity, persons jointly residing or formerly residing in the same dwelling unit, and persons who have or have had a dating relationship.

(e) “Incapacitated person” means a person who, for reasons other than being a minor, is unable to receive and evaluate information or make or communicate decisions to such an extent that the individual lacks the ability to meet essential requirements for physical health, safety, or self-care even with appropriate and reasonably available technological assistance.

(f) “Law enforcement officer” means any public servant, whether employed by the Republic of Palau or political subdivisions thereof, or any state thereof, vested by law with a duty to maintain public order or, to make arrests for offenses or to enforce the criminal laws, whether that duty extends to all offenses or is limited to a specific class of offenses.

(g) “Malicious property damage” means an intentional or knowing damage to the property of another, without his or her consent, with intent to thereby cause emotional distress.

Source

RPPL 8-51 § 3[820], modified.

Notes

Section 820 in the original legislation is changed to section 821 above to conform with the code numbering format. All other sections are renumbered accordingly.

§ 822. Court jurisdiction.

An application for relief under this chapter may be filed in any court in the Republic of Palau. Actions under this chapter shall be given docket priorities by the court.

Source

RPPL 8-51 § 3[821], modified.

§ 823. Order for protection.

(a) There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(b) A petition for relief under this chapter may be made by:

(1) Any family or household member on the member’s own behalf or on behalf of a family or household member who is a minor or who is an incapacitated person or who is physically unable to go to the appropriate place to complete or file the petition; or

(2) Any agency of the Republic of Palau on behalf of a person who is a minor or who is an incapacitated person or a person who is physically unable to go to the appropriate place to complete or file the petition on behalf of that person.

(c) A petition for relief shall be in writing upon forms provided by the court and shall allege, under penalty of perjury, that: a past act or acts of abuse may have occurred; threats of abuse make it probable that acts of abuse may be imminent; or extreme psychological abuse or malicious property damage is imminent; and be accompanied by an affidavit made under oath or a statement made under penalty of perjury stating the specific facts and circumstances from which relief is sought.

(d) The court shall designate an employee or appropriate nonjudicial agency to assist the person in completing the petition.

(e) The clerk of the court shall accept a petition for an order for protection without assessment of a filing fee.

Source

RPPL 8-51 § 3[822], modified.

§ 824. Temporary restraining order.

(a) Upon petition to any court, an ex parte temporary restraining order may be granted without notice to restrain either or both parties from contacting, threatening, or physically abusing each other. The order may be granted to any person who, at the time the order is granted, is a family or household member as

defined in 21 PNC § section 821 or who filed a petition on behalf of a family or household member. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence; or
- (3) Entering or visiting the protected party's residence.

The ex parte temporary restraining order may also enjoin or restrain both of the parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.

(b) For any person who is alleged to be a family or household member by virtue of a dating relationship, the court may consider the following factors in determining whether a dating relationship exists:

- (1) The length of the relationship;
- (2) The nature of the relationship; and
- (3) The frequency of the interaction between the parties.

(c) The court may issue the ex parte temporary restraining order orally, if the person being restrained is present in court. The order shall state that there is probable cause to believe that a past act or acts of abuse have occurred, or that threats of abuse make it probable that acts of abuse may be imminent. The order further shall state that the temporary restraining order is necessary for the purposes of: preventing acts of abuse or preventing a recurrence of actual domestic abuse and ensuring a period of separation of the parties involved. The order shall also describe in reasonable detail the act or acts sought to be restrained. Where necessary, the order may require either or both of the parties involved to leave the premises during the period of the order; may also restrain the party or parties to whom it is directed from contacting, threatening, or physically abusing the applicant's family or household members; and may enjoin or restrain both parties from taking, concealing, removing, threatening, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court. The order shall not only be binding upon the parties to the action, but also upon their officers, agents, servants, employees, attorneys, or any other persons in active concert or participation with them. The order shall enjoin the respondent or person to be restrained from performing any combination of the following acts:

- (1) Contacting, threatening, or physically abusing the protected party;
- (2) Contacting, threatening, or physically abusing any person residing at the protected party's residence;
- (3) Entering or visiting the protected party's residence; or
- (4) Taking, concealing, removing, threatening harm, physically abusing, or otherwise disposing of any animal identified to the court as belonging to a household, until further order of the court.

(d) If a divorce or a child custody proceeding is pending, a petition for a temporary restraining order may be filed in that same proceeding to the extent practicable. Any decree or order issued in a divorce or child custody proceeding subsequent to the petition being filed or an order being issued pursuant to this section, in the discretion of the court hearing the divorce or child custody proceeding, may supersede in whole or part the orders issued pursuant to this section. The factual findings and rulings made in connection with the granting or denying of a temporary restraining order may not have binding effect in any other court proceeding, including child custody determinations under 21 PNC section 302, and the court in such proceedings may give de novo consideration to the facts and circumstances alleged in making later determinations affecting the parties, including determination of custody and visitation.

(e) When a temporary restraining order is granted and the respondent or person to be restrained knows of the order, a knowing or intentional violation of the restraining order is a misdemeanor. A person convicted under this section shall be referred to the Ministry of Health for behavioral health assessment and mandatory counseling, or referred to any other domestic violence intervention programs as ordered by the court. The court additionally shall sentence a person convicted under this section as follows:

(1) For a first conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of forty-eight (48) hours and be fined not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine; and

(2) For the second conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of thirty (30) days, and be fined not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.

(3) For the third and any subsequent conviction for violation of the temporary restraining order, the person shall serve a mandatory minimum jail sentence of six (6) months and be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to 18 PNC Chapter 6. The court may stay the imposition of the sentence if special circumstances exist. The court shall make findings as to the special circumstances on the record.

The court may suspend any jail sentence, except for the mandatory sentences under [subsections] (1), (2) and (3), upon condition that the defendant remain alcohol and drug-free, conviction-free, or complete court-ordered assessments or intervention. Nothing in this section shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor.

(f) Any fines collected pursuant to subsection (e) shall be deposited into a separate account within the National Treasury solely for use in creating and facilitating domestic violence intervention programs.

Source

RPPL 8-51 § 3[823], modified.

Notes

The bracketed [subsections] in the paragraph before subsection (f) read paragraphs in the original legislation and was changed to subsections to conform with the code format.

§ 825. Period of order; hearing.

(a) A temporary restraining order granted pursuant to this chapter shall remain in effect at the discretion of the court, for a period not to exceed one hundred eighty days from the date the order is granted or until the effective date, as defined in 21 PNC section 827, of a protective order issued by the court, whichever occurs first.

(b) On the earliest date that the business of the court will permit, but no later than fifteen days from the date the temporary restraining order is granted, the court, after giving due notice to all parties, shall hold a hearing on the application requiring cause to be shown why the order should not continue. In the event that service has not been effected, the court may set a new date for the hearing; provided that the date shall not exceed ninety days from the date the temporary restraining order was granted. All parties shall be present at the hearing and may be represented by counsel.

The protective order may include all orders stated in the temporary restraining order and may provide further relief, as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention.

Source

RPPL 8-51 § 3[824], modified.

§ 826. Protective order; additional orders.

(a) If, after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the order should not be continued and that a protective order is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for a further fixed reasonable period as the court deems appropriate.

The protective order may include all orders stated in the temporary restraining order and may provide for further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services.

(b) A protective order may be extended for such further fixed reasonable period as the court deems appropriate. Upon application by a person or agency capable of petitioning under 21 PNC section 823, the court shall hold a hearing to determine whether the protective order should be extended. In making a determination, the court shall consider evidence of abuse and threats of abuse that occurred prior to the initial restraining order and whether good cause exists to extend the protective order.

The extended protective order may include all orders stated in the preceding restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. The court may terminate the extended protective order at any time with the mutual consent of the parties.

Source

RPPL 8-51 § 3[825], modified.

§ 827. Effective date.

The temporary restraining order shall be effective as of the date of signing and filing; provided that if a temporary restraining order is granted orally in the presence of all the parties and the court determines that each of the parties understands the order and its conditions, if any, then the order shall be effective as of the date it is orally stated on the record by the court until further order of the court. Protective orders orally stated by the court on the record shall be effective as of the date of the hearing if the respondent attends the hearing or, if the respondent was served but failed to appear, then upon service of the protective order upon the respondent until further order of the court; provided that all oral protective orders shall be reduced to writing and issued forthwith. The judiciary shall provide forms that will enable the court to issue all temporary restraining orders forthwith.

Source

RPPL 8-51 § 3[826].

§ 828. Notice of order.

(a) Any order issued under this chapter shall either be personally served upon the respondent, or served by certified mail, unless the respondent was present at the hearing in which case the respondent shall be deemed to have notice of the order. A filed copy of each order issued under this chapter shall be delivered to the Bureau of Public Safety.

(b) Except as otherwise provided in this chapter or in the order, a law enforcement officer may use a reliable copy, facsimile telecommunication, or other reliable reproduction of an order issued pursuant to this chapter in lieu of the original order for purposes of this section. Any such copy, facsimile telecommunication, or other reproduction shall be a complete reproduction of the entire original order and may only be transmitted from law enforcement officer to law enforcement officer until served.

Source

RPPL 8-51 § 3[827].

§ 829. Assistance of police in service or execution.

When an order is issued under this chapter upon request of the petitioner, the court may order the police to serve the order and related documents upon respondent and to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence.

Source

RPPL 8-51 § 3[828].

§ 830. Right to apply for relief.

(a) A person's right to apply for relief shall not be affected by the person's leaving the residence or household to avoid abuse.

(b) The court shall not require security or bond of any party unless it is deemed necessary in exceptional cases.

Source

RPPL 8-51 § 3[829].

§ 831. Modification of order.

Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection. The court may deny, without hearing, a motion to dismiss or to modify the terms of an existing order for protection if the motion, on its face, does not allege facts sufficient to establish a material change in the circumstances of the parties since the issuance or last modification of the order.

Source

RPPL 8-51 § 3[830].

§ 832. Copy to law enforcement agency.

(a) Any order for protection granted pursuant to this chapter shall be transmitted by the clerk of the court within twenty-four hours to the police unit nearest the petitioner's residence.

(b) Each police department shall make available to other law enforcement officers, through a system for verification, information as to the existence and status of any order for protection issued pursuant to this chapter.

Source

RPPL 8-51 § 3[831].

§ 833. Violation of an order for protection.

(a) Whenever an order for protection is granted pursuant to this chapter, a respondent or person to be restrained who knowingly or intentionally violates the order for protection is guilty of a misdemeanor. A person convicted under this section shall be referred to the Ministry of Health for behavioral health assessment and mandatory counseling, or referred to any other domestic violence intervention programs as ordered by the court. The court additionally shall sentence a person convicted under this section as follows:

(1) For a first conviction for violation of the order for protection:

(A) That is in the nature of non-domestic abuse, the person may be sentenced to a jail sentence of forty-eight (48) hours and be fined not more than one hundred fifty dollars (\$150); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;

(B) That is in the nature of domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight (48) hours and be fined not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;

(2) For a second conviction for violation of the order for protection:

(A) That is in the nature of non-domestic abuse, and occurs after a first conviction for violation of the same order that was in the nature of non-domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight (48) hours and be fined not more than two hundred fifty dollars (\$250); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;

(B) That is in the nature of domestic abuse, and occurs after a first conviction for violation of the same order that was in the nature of domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than thirty (30) days and be fined not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;

(C) That is in the nature of non-domestic abuse, and occurs after a first conviction for violation of the same order that was in the nature of domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight (48) hours and be fined not more than two hundred fifty dollars (\$250); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;

(D) That is in the nature of domestic abuse, and occurs after a first conviction for violation of the same order that is in the nature of non-domestic abuse, the person shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight (48) hours and be fined not more than one hundred fifty dollars (\$150); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine;

(3) For any subsequent violation that occurs after a second conviction for violation of the same order for protection, the person shall be sentenced to a mandatory minimum jail sentence of not less than sixty (60) days and be fined not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000); provided that the court shall not sentence a defendant to pay a fine unless the defendant is or will be able to pay the fine.

Upon conviction and sentencing of the defendant, the court shall order that the defendant immediately be incarcerated to serve the mandatory minimum sentence imposed; provided that the defendant may be admitted to bail pending appeal pursuant to 18 PNC Chapter 6. The court may stay the imposition of the sentence if special circumstances exist. The court shall make findings as to the special circumstances on the record.

The court may suspend any jail sentence, except for the mandatory sentences under [subsections] (1)(B) and (2)(A) to (D), upon condition that the defendant remain alcohol and drug-free, conviction-free, or complete court-ordered assessments or intervention. Nothing in this section shall be construed as limiting the discretion of the judge to impose additional sanctions authorized in sentencing for a misdemeanor offense. All remedies for the enforcement of judgments shall apply to this chapter.

(b) Any fines collected pursuant to subsection (a) shall be deposited into a separate account within the National Treasury solely for use in creating and facilitating domestic violence intervention programs.

Source

RPPL 8-51 § 3[832], modified.

Notes

The bracketed [subsections] in the paragraph before subsection (b) read sub-paragraphs in the original legislation and was changed to subsections to conform with the code format.

§ 834. Severability clause.

If any provision of this chapter, or the application thereof to any person, thing or circumstance, is held invalid, the invalidity shall not affect the provisions or application of this chapter that can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.

Source

RPPL 8-51 § 4, modified.