

CHAPTER 17

Reciprocal Enforcement of Support

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SUBCHAPTER I

General Provisions

§ 1711. 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 301.

§ 1712. Definitions.

For the purposes of this chapter:

- (1) "Court" means the Trial Division of the High Court of the Trust Territory, and when the context requires means the court of any State as defined in a substantially similar reciprocal law.
- (2) "District attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.
- (3) "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.
- (4) "Governor" includes the High Commissioner of the Trust Territory and any person performing the functions of Governor or the executive authority of any State covered by this chapter.
- (5) "Initiating State" means a State in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.
- (6) "Law" includes both common and statutory law.
- (7) "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.
- (8) "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.
- (9) "Register" means to file in the Registry of Foreign Support Orders.
- (10) "Registering court" means any court of the Trust Territory in which a support order of a rendering State is registered.
- (11) "Rendering State" means a State in which the court has issued a support order for which registration is sought or granted in the court of another State.
- (12) "Responding State" means a State in which any responsive proceeding pursuant to the proceeding in the initiating State is commenced. "Responding court" means the court in which the responsive proceeding is commenced.
- (13) "State" includes a State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.
- (14) "Support order" means any judgment, decree, or order of support in favor of an obligee, whether

temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 302.

Editor's note: Subsections rearranged in alphabetical order in the 1982 edition of this code.

§ 1713. 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 303.

§ 1714. Duties of support regardless of presence or residency.

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

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 304.

SUBCHAPTER II

Criminal Enforcement

§ 1721. Interstate rendition—Authority of High Commissioner.

The High Commissioner of the Trust Territory may:

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

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

demanding State.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 351.

§ 1722. Interstate rendition—Investigations of circumstances.

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

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

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

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 352.

SUBCHAPTER III

Civil Enforcement

§ 1731. 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 401.

§ 1732. 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 402.

§ 1733. 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 403.

§ 1734. Jurisdiction.

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

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 404.

§ 1735. Contents and filing of complaint for support.

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

(2) The complaint may be filed in the appropriate court of any jurisdiction in which the obligee resides. The court shall not decline or refuse to accept and forward the complaint on the ground that it should be filed with some other court of this or any other jurisdiction where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 405.

§ 1736. Attorney General to represent obligee.

If the Trust Territory is acting as an initiating State, the Attorney General or his representative, upon the request

of the court, shall represent the obligee in any proceeding under this chapter.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 406.

§ 1737. 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 407.

§ 1738. 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 408.

§ 1739. Costs and fees.

An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee but it may direct that all fees and costs requested by the initiating court and incurred in the Trust Territory when acting as a responding State, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor or by the State or political subdivision thereof. These costs or fees do not have priority over amounts due to the obligee.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 409.

§ 1740. Jurisdiction by arrest.

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

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

(2) as a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his giving a bond in an amount set by the court to assure his appearance at the hearing.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 410.

§ 1741. Information agency; Efforts of Attorney General to locate obligors.

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

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

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

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

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

(2) If the Attorney General does not know the location of the obligor or his property in the Trust Territory, he shall use all means at his disposal to obtain this information, including but not limited to the examination of any official records, as he may deem appropriate.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 411.

§ 1742. Duties of the Court and officials of the Trust Territory as responding State—Prosecution of case.

(1) After the responding Court receives copies of the complaint, certificate, and act from the initiating court, the Clerk of Courts shall docket the case and notify the District Attorney of his action.

(2) The District Attorney shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of the Trust Territory to enable the Court to obtain jurisdiction over the obligor or his property and shall request the Clerk of Courts to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 412.

§ 1743. Duties of the Court and officials of the Trust Territory responding State—Location of obligors.

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

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

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

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 413.

§ 1744. Continuance of case.

If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the Court, upon request of either party, may continue the case for further hearing and the submission of evidence by both parties by deposition or by appearing in person before the Court. The Court may designate the judge of the initiating court as a person before whom a deposition may be taken.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 414.

§ 1745. Waiver of privilege against self-incrimination and immunity from criminal prosecution.

If at the hearing the obligor is called for examination as an adverse party and he declines to answer upon the ground that his testimony may tend to incriminate him, the Court may require him to answer, in which event he is immune from criminal prosecution with respect to matters revealed by his testimony, except for perjury committed in this testimony.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 415.

§ 1746. Testimony of husband and wife.

Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this chapter. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter including marriage and parentage, the provisions of section 1301 of this title and rule 28 of the Trust Territory rules of evidence notwithstanding.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 416.

§ 1747. 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 13 of this title and in the Trust Territory rules of evidence, except as otherwise provided in this chapter. If the action is based on a support order issued by another court, a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity as set forth in section 1751 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 417.

Cross-reference: The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code. The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

§ 1748. Orders of support; Authorized; Enforcement.

(1) 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.

(2) The Court and District Attorney of any District of the Trust Territory in which the obligor is present or has property shall have the same powers and duties to enforce the order as have those of the District in which it was first issued. If enforcement is impossible or cannot be completed in the District in which the order was issued, the District Attorney shall send a certified copy of the order to the District Attorney of any District in which it appears that proceedings to enforce the order would be effective. The District Attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 418.

§ 1749. Orders of support—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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 419.

§ 1750. Orders of support—Additional powers of responding court.

In addition to the foregoing powers, a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:

- (1) require the obligor to furnish a cash deposit or a bond of a character and amount to be specified by the court to assure payment of any amount due;
- (2) require the obligor to report personally and to make payments at specified intervals to the Clerk of Courts; and
- (3) punish under the power of contempt the obligor who violates any order of the court.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 420.

§ 1751. 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 421.

§ 1752. Forwarding of payments and payment records by responding court.

A responding court has the following duties which may be carried out through the Clerk of Courts:

- (1) to transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise; and
- (2) to furnish to the initiating court upon request a certified statement of all payments made by the obligor.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 422.

§ 1753. 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 423.

§ 1754. Proceedings not to be stayed.

A responding court shall not stay the proceeding or refuse a hearing under this chapter because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other jurisdiction. The court shall hold a hearing and may issue a support order *pendente lite*. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the complaint being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 424.

§ 1755. Application of payments made under orders of another court.

A support order made by a court of the Trust Territory pursuant to this chapter does not nullify and is not nullified by a support order made by a court of another State pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by a court of another State shall be credited against the amounts accruing or accrued for the same period under any support order made by a court of the Trust Territory.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 425.

§ 1756. 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: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 426.

§ 1757. Interdistrict application.

This chapter applies if both the obligee and the obligor are in the Trust Territory but in different Districts. If the court of the District in which the complaint is filed finds that the complaint sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another District in the Trust Territory may obtain jurisdiction over the obligor or his property, the clerk of courts shall send the complaint and a certification of the findings to the court of the District in which the obligor or his property is found. The clerk of courts of the District receiving these documents shall notify the District Attorney of their receipt. The District Attorney and the court in the District to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for the Trust Territory as a responding State.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 427.

§ 1758. Appeals.

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

(1) perfect an appeal to the proper appellate court if the support order was issued by a court of the Trust Territory; or

(2) if the support order was issued in another State, cause the appeal to be taken in the other State. In either case, expenses of appeal may be paid on his order from funds appropriated for his office.

Source: COM PL 4C-37 § 1; TT Code 1980, 39 TTC 428.