

FIRST REGULAR SESSION, 1986

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AN ACT

To provide procedures to prohibit family abuse, to provide counseling for victims of family abuse, to declare family abuse a crime, to amend 8 CMC, Division 1, Chapter 2, and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1           Section 1. Amendment. Chapter 2 of 8 CMC, Division 1 is  
2 redesignated as 8 CMC, Division 1, Chapter 2, Article 1: Marriage and  
3 a new Article 2: Family Protection Act is added to read as follows:

4           "Section 1221. Title and Purpose.

5           (a) This article may be cited as the Commonwealth Family  
6 Protection Act of 1986.

7           (b) The purpose of this article is to preserve and maintain  
8 the customary strong family relationships that exist in the  
9 Northern Mariana Islands. The article provides necessary legal  
10 protections for family members who are victims of civil and  
11 criminal family abuse. The relief offered by the article helps  
12 maintain the family unit through the intervention of private  
13 relief organizations such as Catholic Social Services, through  
14 public relief agencies such as the Division of Youth Services  
15 and, if necessary, through the judicial system. The purpose  
16 of the article is to provide assistance to both the victims  
17 of family abuse as well as the perpetrators of such abuse.

18           (c) The article shall in no way affect or supersede the  
19 provisions of Public Law 3-18, as amended, the Child Abuse Act.  
20 It is intended that the operation of the two laws will complement  
21 each other.

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1 Section 1222. Definitions. As used in this article:

2 (a) "Abuse" means the occurrence of one or more of  
3 the following acts between family members who reside  
4 together or who formerly resided together:

5 (1) attempting to cause or intentionally,  
6 knowingly, or recklessly causing bodily injury with  
7 or without a deadly weapon, including coerced or  
8 forced sexual relations and harassment;

9 (2) placing another in fear of imminent bodily  
10 injury.

11 (b) "Act" includes the regulation promulgated under  
12 this act.

13 (c) "Administrative Procedure Act" means the act set  
14 forth in Title 1, Division 9, Chapter 1 of the Commonwealth  
15 Code.

16 (d) "Course of conduct" is a pattern of conduct  
17 composed of a series of acts over a period of time,  
18 however short, evidencing a continuity of purpose.  
19 Constitutionally protected activity is not included  
20 within the meaning of "course of conduct".

21 (e) "Court" means the Commonwealth Trial Court.

22 (f) "Director" means the Director of Community and  
23 Cultural Affairs.

24 (g) "Family members" includes spouses, persons living  
25 as spouses, persons who formerly resided as spouses, parents,

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1 children and stepchildren, household members, or other  
2 persons related by blood, marriage, or customary affinity  
3 as brothers, sisters, children, spouses, or parents.

4 (h) "Harassment" is a knowing and willful course of  
5 conduct directed at a specific person which seriously  
6 alarms, annoys or harasses the person, and which serves no  
7 legitimate purpose under law or custom. The course of  
8 conduct must be such as would cause a reasonable person to  
9 suffer substantial emotional distress, and must actually  
10 cause substantial emotional distress to the plaintiff.

11 Section 1223. Division of Youth Services: Duties.

12 (a) The Division of Youth Services, Department of  
13 Community and Cultural Affairs, shall provide services for  
14 abused family members of all ages. The Division Youth  
15 Services shall make available, among its services for  
16 abused family members, multi-disciplinary teams,  
17 protective and preventive social counseling, emergency  
18 caretaker services, and emergency shelter care. The  
19 Division Youth Services may make available surplus  
20 government supplies and offices to non-profit  
21 organizations, which provide support or treatment  
22 services to present and former abused family members.

23 (b) The Division Youth Services may receive federal  
24 funds, private grants, and appropriations from the  
25 Commonwealth General Fund to provide services to abused

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1 family members. The Unit shall apply for federal funding  
2 available pursuant to 42 USC Section 10401 et seq.

3 Section 1224. Jurisdiction.

4 (a) The Commonwealth Trial Court shall have  
5 jurisdiction over all proceedings under this article.

6 (b) The plaintiff's right to relief under this act  
7 shall not be affected by his or her leaving the residence  
8 or household to avoid further abuse.

9 Section 1225. Commencement of Civil Proceeding.

10 (a) A person may seek relief under this act for  
11 himself or herself and for minor children under his or  
12 her care or custody.

13 (b) All proceedings pursuant to this act are  
14 separate and independent of any proceedings for divorce,  
15 annulment, or separate maintenance, and the remedies  
16 provided are in addition to any other available civil or  
17 criminal remedies.

18 (c) The Court shall provide simplified forms and  
19 clerical assistance to help with the writing and filing  
20 of a petition under this section by any person not  
21 represented by counsel.

22 (d) The Court shall advise a petitioner under  
23 subsection (c) of the right to file a motion and  
24 declaration and to sue in forma pauperis pursuant to  
25 7 CMC §3205. The administrative staff of the Public

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1 Defender and Court shall assist with the writing and  
2 filing of the motion and declaration.

3 (e) The Government, Court, Public Defender, and  
4 its officers and employees shall not be liable for any  
5 negligence actions arising from its duties under this  
6 Section.

7 Section 1226. Hearing.

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

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

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

21 Section 1227. Procedure. Any proceeding under this article shall  
22 be in addition to any other available civil or criminal remedies. The  
23 proceedings shall be sufficiently flexible to permit a person to proceed  
24 without representation of counsel.

1           Section 1228. Family Abuse Admissions Encouraged. Any testimony  
2 offered by a defendant in a civil hearing under this article is  
3 inadmissible in a criminal proceeding.

4           Section 1229. Emergency Relief.

5                   (a) When the court closes for regular proceedings  
6 during the weekend or a holiday, an emergency petition  
7 may be heard before the court if the court deems it  
8 necessary to protect the plaintiff from abuse upon good  
9 cause shown in an ex parte proceeding. Immediate and  
10 present danger of abuse to the plaintiff shall constitute  
11 good cause for purposes of this section.

12                   (b) Any order issued under Subsection (a) shall  
13 expire as of the resumption of business of the court at  
14 the beginning of the week or upon a subsequent order of  
15 the court, whichever occurs later.

16                   (c) Any order issued under this section and  
17 documentation in support thereof shall be immediately  
18 certified to the court. Such certification to the court  
19 shall have the effect of commencing proceedings under  
20 Section 1225 of this article and invoking the other  
21 provisions of this article.

22           Section 1230. Relief.

23                   (a) The court may grant protection by appropriate  
24 order or approve any consent agreement to bring about a  
25 cessation of abuse of the plaintiff. The relief is not

1           limited to but may include:

2                   (1) directing the defendant to refrain from  
3                   abusing, harassing, contacting, molesting, attacking,  
4                   striking, threatening, sexually assaulting, battering,  
5                   or disturbing the peace of the plaintiff, and in the  
6                   discretion of the court upon a showing of good cause,  
7                   other named family or household members;

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

13                  (3) when the defendant has a duty to support  
14                  the plaintiff, minor children or persons customarily  
15                  living in the residence or household and the  
16                  defendant is the sole owner or lessee, granting  
17                  possession to the plaintiff of the residence or  
18                  household to the exclusion of the defendant by  
19                  evicting the defendant or restoring possession to  
20                  the plaintiff or by consent agreement allowing the  
21                  defendant to provide suitable, alternate housing; or

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

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1           (b) Any protection order or approved consent  
2 agreement shall be for a fixed period of time not to  
3 exceed one year. The court may amend its order or  
4 agreement at any time upon subsequent petition filed  
5 by either party.

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

8           (d) The court is encouraged to award attorney's  
9 fees to a party which secures relief under this section.

10          Section 1231. Notification. A copy of any order under this act  
11 shall be issued promptly by the court to the plaintiff, the defendant  
12 and the Department of Public Safety which shall enforce the order or  
13 agreement. Any order issued to a defendant shall contain the following  
14 warning in boldface type or capital letters:  
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16           A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR  
17           CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$\_\_\_\_\_ OR  
18           BY CONFINEMENT IN JAIL FOR AS LONG AS \_\_\_\_\_ MONTHS,  
19           OR BOTH.

20          The warning shall be in bilingual form where appropriate.

21          When a protection order is issued, upon request of the applicant,  
22 the court shall order the Department of Public Safety to assign an  
23 appropriate law enforcement officer to accompany the applicant and assist  
24 in placing the applicant in possession of the dwelling or residence, or  
25 otherwise assist in execution or service of the protection order.

1 Section 1232. Rules and Regulations. The Director, Department of  
2 Community and Cultural Affairs shall promulgate regulations to implement  
3 this act within 120 days from the effective date of this act.

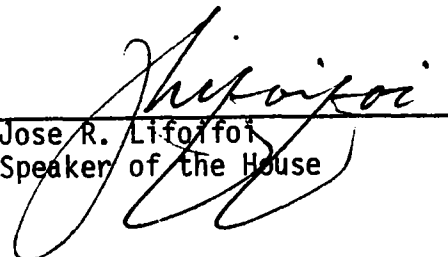
4 Section 1233. Penalties.

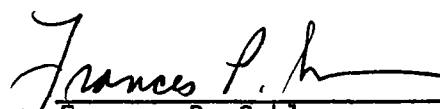
5 (a) Whenever a restraining order is granted pursuant  
6 to this act or pursuant to an order based on domestic  
7 violence in connection with any other proceeding, and the  
8 defendant or the person to be restrained knows of the  
9 order, violation of the restraining order shall constitute  
10 criminal contempt of court, pursuant to 6 CMC §3307, and  
11 shall be subject to the penalties provided in 6 CMC  
12 Section 3307.

13 (b) A peace officer shall arrest without a warrant  
14 and take into custody a person who the peace officer  
15 has probable cause to believe has violated an order  
16 restraining the person or excluding the person from the  
17 residence, if the existence of the order can be verified  
18 by the officer."


19 Section 2. Effective Date. This act shall take effect upon its  
20 approval by the Governor, or upon its becoming law without such approval.

ATTEST:

  
Jose R. Lifofoi  
Speaker of the House

  
Frances P. Sablan  
House Clerk

October 2, 1986

  
Pedro P. Tenorio  
Governor  
Commonwealth of the Northern Mariana Islands