

# **TITLE 51**

## **DOMESTIC RELATIONS**



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### CHAPTER

- 1 GENERAL PROVISIONS**
- 2 MARRIAGE**
- 3 ANNULMENT AND DIVORCE**
- 4 RECIPROCAL ENFORCEMENT OF SUPPORT**
- 5 ADOPTION**
- 6 CHILD ABUSE**

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### CHAPTER 1 GENERAL PROVISIONS

#### Section

1-101 Jurisdiction [Reserved]	1-105 Confirmation in accordance with recognized custom
1-102 Petitions in annulment, divorce or adoption	1-106 Age of majority
1-103 Appeal and review	
1-104 Local custom recognized	

#### **§1-101. Jurisdiction. — [RESERVED]**

Source: TTC §711 (1966); 39 TTC §1 (1970); P.L. No. 4C-56 §1; 39 TTC §1 (1980)

Note: Language relating to jurisdiction of High Court, District Courts and Community Courts of the Trust Territory has been omitted.

#### **§1-102. Petitions in annulment, divorce or adoption. —**

(1) All proceedings for annulment, divorce or adoption shall be commenced by petition signed and sworn to by the petitioner or petitioners personally.

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

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

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

Source: TTC §712 (1966); 37 TTC §2 (1970); P.L. No. 4C-56 §2; 39 TTC §2 (1980)

**§1-103. Appeal and review. —**

(1) 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 case has been reviewed, if subject to review by the Pohnpei Supreme Court, and until the period for appeal has expired without any appeal having been filed or until any appeal taken shall have been finally dispatched.

(2) Except as otherwise expressly provided by this title, annulment, divorce, and adoption proceedings shall be governed by the provisions of law and rules of civil procedure applicable to civil actions.

Source: TTC §713 (1966); 37 TTC §3 (1970); 39 TTC §3 (1980)

Note: Language relating to jurisdiction of District Courts and Community Courts of the Trust Territory has been omitted.

**§1-104. Local custom recognized. —** Nothing contained in this title, except for §1-105, 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: TTC §714 (1966); 39 TTC §4 (1970); 39 TTC §4 (1980)

**§1-105. Confirmation in accordance with recognized custom. —** When an annulment, divorce or adoption has been effected in the state of Pohnpei 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 Pohnpei 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, and shall be filed in the Trial Division of the Pohnpei Supreme Court. If, after notice to all parties still living and a hearing, the court is satisfied that the annulment, divorce or adoption alleged is valid in accordance with recognized custom in the part of the state of Pohnpei where it was effected, the Pohnpei Supreme Court shall enter a decree confirming the annulment, divorce or adoption and may include in this decree the date it finds the annulment, divorce or adoption was absolute until the period for appealing has expired without any appeal having been filed or until any appeal taken shall have been filed or finally dispatched.

Source: TTC §715 (1966); 39 TTC §5 (1970); P.L. No. 4C-56 §3; 39 TTC §5 (1980)

**§1-106. Age of majority. —** All persons, whether male or female, residing in the state of Pohnpei, 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 (1970); 39 TTC §6 (1980)

## CHAPTER 2 MARRIAGE

### Section

2-101 Two noncitizens or noncitizen and FSM citizen: requisites of marriage contract	2-103 Two noncitizens or noncitizen and FSM citizen: ceremony
2-102 Two noncitizens or noncitizen and FSM citizen: license	2-104 Records; certificate; register
	2-105 Marriage between citizens

**§2-101. Two noncitizens or noncitizen and FSM 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 Federated States of Micronesia, hereinafter referred to as the “FSM,” it shall be necessary that:

- (1) 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;
- (2) Neither of the respective parties has a lawful spouse living; and
- (3) A marriage ceremony be performed by a duly authorized person as provided in this chapter.

Source: TTC §690 (1966); 39 TTC §51 (1970); 39 TTC §51 (1980)

**§2-102. Two noncitizens or noncitizen and FSM citizen: license.** —

(1) The Governor or his designee is authorized to grant a license for marriage between two noncitizens or between a noncitizen and a citizen of the FSM. Upon the filing of an application for such a license, the Governor or his designee shall collect from the parties making the application the sum of \$2 to be remitted to the Director of the Department of Treasury and Administration.

(2) In order to obtain a license to marry, the parties shall file with the Governor or his designee 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 Governor or his designee shall issue to the parties a license to marry. Nothing in this section shall be construed to prevent the issuance of a license to marry to two citizens of the FSM.

Source: TTC §691 (1966); 39 TTC §52 (1970); 39 TTC §52 (1980)

**§2-103. Two noncitizens or noncitizen and FSM citizen: ceremony.** — The presence of at least two witnesses is requisite for the celebration of a marriage between two noncitizens or between a noncitizen and a citizen of the FSM. The marriage rite may be performed and solemnized by an ordained minister, a justice of the Pohnpei Supreme Court, the Governor or by any person authorized by law to perform marriages, upon presentation to him of a license to marry as prescribed in §2-102. The person solemnizing a marriage may receive a fee to be stipulated by the parties, or the gratification tendered to him.

Source: TTC §692 (1966); 39 TTC §53 (1970); 39 TTC §53 (1980)

**§2-104. Records; certificate; register.** — It shall be the duty of every person authorized to perform marriages to make and preserve a record of every marriage performed by him, regardless of the citizenship of the parties, showing the names of the persons married, their places of residence, and the date of marriage, and to deliver to the bride immediately after the ceremony a certificate of the record of such marriage, signed by him, two witnesses, if there were as many as two, and the persons married. He shall send a copy of the marriage certificate, not later than ten days after the granting of

the same, to the Clerk of the Pohnpei Supreme Court to be recorded in the marriage register. Forms issued by the Governor for such marriage certificates shall be used when available, but lack of such forms shall not excuse failure to provide the bride with the certificate and the Clerk with the copy required above in substantially the same form and containing the same information as in the forms issued by the Governor.

Source: TTC §693 (1966); 39 TTC §54 (1970); 39 TTC §54 (1980)

**§2-105. Marriage between citizens.** — Marriage contracts between parties, both of whom are citizens of the FSM, solemnized in accordance with recognized customs, shall be valid. A notice of such marriage, showing the names and addresses of the persons married, their ages, and the date of marriage, shall be sent to the clerk of courts, who shall, upon receipt thereof, record the same in the marriage register.

Source: TTC §694 (1966); 39 TTC §55 (1970); 39 TTC §55 (1980)

## CHAPTER 3 ANNULMENT AND DIVORCE

### Section

3-101 Competency [Reserved]	3-107 Divorce: grounds
3-102 Orders for custody, support, and alimony	3-108 Divorce: residency requirement
3-103 Effect of decree	3-109 Divorce: forgiveness as a defense
3-104 Annulment: grounds	3-110 Divorce: procurement or connivance as defense
3-105 Annulment: residency requirement	
3-106 Annulment: legitimacy of issue	

### **§3-101. Competency. — [RESERVED].**

Source: TTC §702 (1966); 39 TTC §101 (1970); 39 TTC §101 (1980)

Note: Language relating to competency of District Courts and Community Courts of the Trust Territory has been omitted.

**§3-102. 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: TTC §704 (1966); 39 TTC §103 (1970); 39 TTC §103 (1980)

**§3-103. 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: TTC §705 (1966); 39 TTC §104 (1970); 39 TTC §104 (1980)

**§3-104. Annulment: grounds. —** A decree annulling a marriage may be rendered on any ground existing at the time of the marriage that makes the marriage illegal and void or voidable. A court may, however, refuse to annul a marriage that 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: TTC §695 (1966); 39 TTC §151 (1970); 39 TTC §151 (1980)

**§3-105. Annulment: residency requirement. —** No annulment shall be granted unless one of the parties shall have resided in Pohnpei for the three months immediately preceding the filing of the complaint.

Source: TTC §696 (1966); 39 TTC §152 (1970); 39 TTC §152 (1980)

**§3-106. Annulment: legitimacy of issue. —** The issue of a marriage annulled under this chapter shall be legitimate.

Source: TTC §697 (1966); 39 TTC §153 (1970); 39 TTC §153 (1980)

**§3-107. Divorce: grounds. —** Divorces from marriages may be granted under this chapter for the following causes and no other:

- (1) Adultery;

(2) The guilt of either party toward the other of such cruel treatment, neglect or personal indignities, whether or not amounting to physical cruelty, as to render the life of the other burdensome and intolerable and their further living together insupportable;

(3) Willful desertion continued for a period of not less than one year;

(4) Habitual intemperance in the use of intoxicating liquor or drugs continued for a period of not less than one year;

(5) The sentencing of either party to imprisonment for life or for three years or more. After divorce for such cause, no pardon granted to the party so sentenced shall affect such divorce;

(6) The insanity of either party where the same has existed for three years or more;

(7) The contracting by either party of leprosy;

(8) The separation of the parties for two consecutive years without cohabitation, whether or not by mutual consent; and

(9) Willful 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: TTC §698 (1966); 39 TTC §201 (1970); 39 TTC §201 (1980)

**§3-108. Divorce: residency requirement.** — No divorce shall be granted unless one of the parties shall have resided in Pohnpei for the two years immediately preceding the filing of the complaint.

Source: TTC §699 (1966); 39 TTC §202 (1970); 39 TTC §202 (1980)

**§3-109. Divorce: forgiveness as a defense.** — No divorce shall be granted where the grounds for the divorce have 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. The forgiveness is revoked and the original ground for divorce is revived if the party forgiven commits an act of constituting a like or other ground for divorce or is guilty of conjugal unkindness sufficiently habitual and gross to show that the conditions of forgiveness have not been accepted in good faith or have not been fulfilled.

Source: TTC §700 (1966); 39 TTC §203 (1970); 39 TTC §203 (1980)

**§3-110. Divorce: 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: TTC §701 (1966); 39 TTC §204 (1970); 39 TTC §204 (1980)



## CHAPTER 4 RECIPROCAL ENFORCEMENT OF SUPPORT

### Section

#### Part A General Provisions

4-101 Purposes

4-102 Definitions

4-103 Remedies of chapter in addition to those now existing

4-104 Duties of support regardless of presence or residency

#### Part B Civil Enforcement

4-105 Choice of law

4-106 Rights of jurisdiction or political subdivision furnishing support

4-107 How duties of support enforced

4-108 Jurisdiction

4-109 Contents and filing of complaint for support

4-110 Attorney General to represent obligee

4-111 Complaint on behalf of minor

4-112 Duty of initiating court

4-113 Costs and fees

4-114 Jurisdiction by arrest

4-115 Information agency; efforts of Attorney General to locate obligors

4-116 Duties of the court and officials of the state of Pohnpei as responding state; prosecution of case

4-117 Duties of the court and officials of the state of Pohnpei as responding state; location of obligors

4-118 Continuance of case

4-119 Waiver of privilege against self-incrimination and immunity from criminal prosecution

4-120 Testimony of husband and wife

4-121 Rules of evidence

4-122 Orders of support; authorized; enforcement

4-123 Orders of support; responding court to transmit copies to initiating court

4-124 Orders of support; additional powers of responding court

4-125 Paternity

4-126 Forwarding of payments and payment records by responding court

4-127 Receipt and disbursal of payments by initiating court

4-128 Proceedings not to be stayed

4-129 Application of payments made under orders of another court

4-130 Jurisdictional effect of participation in proceeding

4-131 Intrastate application [Reserved]

4-132 Appeals

#### Part C Criminal Enforcement

4-133 Interstate rendition; authority of Governor

4-134 Interstate rendition; investigations of circumstances

### PART A GENERAL PROVISIONS

**§4-101. 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 (1980)

**§4-102. Definitions.** — For the purposes of this chapter:

(1) "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.

(2) "Court" means the Trial Division of the Pohnpei Supreme Court, and when the context requires means the court of any state as defined in a substantially similar reciprocal law.

(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 Governor of the state of Pohnpei and any person performing the functions of governor or the executive authority of any state covered by this chapter.

(5) “Initiating court” means the court in which a proceeding is commenced.

(6) “Initiating state” means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

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

(8) “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.

(9) “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.

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

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

(12) “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.

(13) “Responding court” means the court in which the responsive proceeding is commenced.

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

(15) “State” includes a state, territory, or possession of the Federated States of Micronesia, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

(16) “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 (1980)

**§4-103. 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 (1980)

**§4-104. Duties of support regardless of presence or residency.** — Duties of support arising under the law of the state of Pohnpei, when applicable under this Code, bind the obligor present in the state of Pohnpei regardless of the presence or residence of the obligee.

Source: P.L. No. 4C-37 §1; 39 TTC §304 (1980)

## PART B CIVIL ENFORCEMENT

**§4-105. 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 (1980)

**§4-106. 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 (1980)

**§4-107. 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 (1980)

**§4-108. Jurisdiction.** — Jurisdiction of any proceeding under this chapter is vested in the Trial Division of the Pohnpei Supreme Court.

Source: P.L. No. 4C-37 §1; 39 TTC §404 (1980)

**§4-109. 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 state of Pohnpei 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: P.L. No. 4C-37 §1; 39 TTC §405 (1980)

Note: The language of the first sentence of Subsection (2) of this section as it appears in the Revised Uniform Reciprocal Enforcement of Support Act of 1968 reads, "The [petition] may be filed in the appropriate court of any state in which the obligee resides." *See* 51 PC 4-102(15).

**§4-110. Attorney General to represent obligee.** — If the state of Pohnpei 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 (1980)

**§4-111. 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 (1980)

**§4-112. 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 (1980)

**§4-113. 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 state of Pohnpei 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 (1980)

**§4-114. Jurisdiction by arrest.** — If a court of the state of Pohnpei 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: P.L. No. 4C-37 §1; 39 TTC §410 (1980)

**§4-115. 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 state of Pohnpei 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 state of Pohnpei 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 state of Pohnpei 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 state of Pohnpei, 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 (1980)

**§4-116. Duties of the court and officials of the state of Pohnpei 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 Attorney General of his action.

(2) The Attorney General shall prosecute the case diligently. He shall take all action necessary in

accordance with the laws of the state of Pohnpei 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 (1980)

**§4-117. Duties of the court and officials of the state of Pohnpei as responding state; location of obligors. —**

(1) The Attorney General 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 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.

(2) If the obligor or his property is not found in the state, 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 a court of the state of Pohnpei forwards documents to another court, he shall forthwith notify the initiating court.

(3) 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 (1980)

**§4-118. 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: P.L. No. 4C-37 §1; 39 TTC §414 (1980)

**§4-119. 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: P.L. No. 4C-37 §1; 39 TTC §415 (1980)

**§4-120. 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 59 PC 4-101 or rules of evidence notwithstanding.

Source: P.L. No. 4C-37 §1; 39 TTC §416 (1980)

**§4-121. Rules of evidence. —** In any hearing for the civil enforcement of this chapter, the court is governed by the rules of evidence set forth in Title 59 of this Code and in the Pohnpei Supreme Court 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 §4-125 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 (1980)

**§4-122. Orders of support; authorized; enforcement.** — If the responding court finds a duty of support, it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this chapter shall require that payments be made to the clerk of the court of the responding state. The court and attorney general of any state of the Federated States of Micronesia 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 which it was first issued. If enforcement is impossible or cannot be completed in the state in which the order was issued, the Attorney General shall send a certified copy of the order to the attorney general of any state in which it appears that proceedings to enforce the order would be effective. The 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 (1980)

**§4-123. 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: P.L. No. 4C-37 §1; 39 TTC §419 (1980)

**§4-124. 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: P.L. No. 4C-37 §1; 39 TTC §420 (1980)

**§4-125. 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 (1980)

**§4-126. 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: P.L. No. 4C-37 §1; 39 TTC §422 (1980)

**§4-127. Receipt and disbursement of payments by initiating court.** — An initiating court shall receive and disburse forthwith all payments made by the obligor or sent by the responding court. This duty may be carried out through the clerk of courts.

Source: P.L. No. 4C-37 §1; 39 TTC §423 (1980)

**§4-128. 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: P.L. No. 4C-37 §1; 39 TTC §424 (1980)

**§4-129. Application of payments made under orders of another court.** — A support order made by a court of the state of Pohnpei 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 state of Pohnpei.

Source: P.L. No. 4C-37 §1; 39 TTC §425 (1980)

**§4-130. 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 (1980)

**§4-131. Intrastate application. — [RESERVED]**

Source: P.L. No. 4C-37 §1; 39 TTC §427 (1980)

Note: This provision of the Trust Territory Code dealt with political subdivisions of the same governmental entity. The Revised Uniform Reciprocal Enforcement of Support Act of 1968 from which this section is derived reads, "This Act applies if both the obligee and the obligor are in this State but in different [counties.] If the court of the [county] in which the [petition] is filed finds that the [petition] sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another [county] in this State may obtain jurisdiction over the obligor or his property, the clerk of the court shall send the [petition] and a certification of the findings to the court of the [county] in which the obligor or his property is found. The clerk of the court of the [county] receiving these documents shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the [county] to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for this State as a responding state." *See* 51 PC 4-108.

**§4-132. 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 state of Pohnpei, 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: P.L. No. 4C-37 §1; 39 TTC §428 (1980)

## PART C CRIMINAL ENFORCEMENT

**§4-133. Interstate rendition; authority of Governor.** — The Governor of the state of Pohnpei may:

(1) Demand of the governor of another state the surrender of a person found in that state who is charged criminally in the state of Pohnpei 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 state of Pohnpei 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 (1980)

**§4-134. 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 state of Pohnpei with the failure to abide by an order of a court ordering him to provide for the support of a person, the Governor of the state of Pohnpei may require the Attorney General of the state of Pohnpei 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.

(2) If, under a substantially similar act, the governor of another state makes a demand upon the Governor of the state of Pohnpei for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the Governor 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 Governor 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 Governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the Governor 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 (1980)



## CHAPTER 5 ADOPTION

### Section

5-101 Jurisdiction	5-104 Appearance of child; best interests of child to control; citizenship considerations
5-102 Adoption by decree	
5-103 Consent or notice required	5-105 Effect of decree

**§5-101. Jurisdiction.** — An adoption authorized under this chapter may be granted by the Trial Division of the Pohnpei Supreme Court if the person or persons requesting the adoption resides in Pohnpei or if the child resides in Pohnpei.

Source: TTC §709 (1966); 39 TTC §251 (1970); P.L. No. 4C-56 §5; 39 TTC §251 (1980)

**§5-102. Adoption by decree.** —

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

(2) The term “child,” as used in this chapter and §1-105, shall refer to the parent-child relationship.

Source: TTC §706 (1966); P.L. No. 4-27 §1; 39 TTC §252 (1970); 39 TTC §252 (1980)

**§5-103. Consent or notice required.** — No adoption shall be granted without either the written consent of, or notice to, each of the known living legal parents who has not been adjudged insane or incompetent or has not abandoned the child for a period of six months, nor shall any adoption of a child of over the age of 12 years be granted without the consent of the child.

Source: TTC §707 (1966); 39 TTC §253 (1970); P.L. No. 4C-56 §36; 39 TTC §253 (1980)

**§5-104. Appearance of child; best interests of child to control; citizenship considerations.** —

(1) No adoption shall be granted under this chapter without the child proposed for adoption appearing before the court, and the adoption shall be granted only if the court is satisfied that the interests of the child will be promoted thereby.

(2) Whenever an adoption petition is filed by a person who is not a citizen of the Federated States of Micronesia for the adoption of a Micronesian child who is either under the age of twelve years or not the petitioner’s step-child, the court shall:

(a) Determine, after reasonable inquiry, whether any member of the child’s immediate or extended family residing in the Federated States of Micronesia, or any other Federated States of Micronesia citizen residing within the state of Pohnpei is willing, able, and suitable to adopt the child;

(b) Give preference in the adoption of a Micronesian child to a Federated States of Micronesia citizen whenever practicable;

(c) Appoint a guardian ad litem or attorney to represent the child;

(d) Not issue a final decree until the child has lived in the proposed adoptive home for a length of time sufficient for the court to determine that the placement is satisfactory; and

(e) Not grant the adoption unless the petitioner has resided in the Federated States of Micronesia for at least three years prior to the filing of the petition.

(3) The standards to be applied in judging the interests of a Micronesian child shall be the prevailing social and cultural standards of the Micronesian community from which the child comes or in which the court is located.

(4) The term “Micronesian child,” as used in this section, shall mean a child born in the Federated States of Micronesia, one or both of whose parents is a Federated States of Micronesia citizen.

Source: TTC §708 (1966); 39 TTC §254 (1970); 39 TTC §254 (1980); P.L. No. IC-28 §1; S.L. No. 6L-79-06 §2-110, 11/1/06

**§5-105. Effect of decree.** — After a decree of adoption has become absolute, the child adopted and the adopting parents shall hold towards each other the legal relation of parent and child and have all the rights and be subject to all the duties of that relationship. The natural parents of the adopted child are, from the time of adoption, relieved of all parental duties toward the child and all responsibilities for the child so adopted, and have no right over it. A child adopted under this chapter shall have the same rights of inheritance as a person adopted in accordance with recognized custom at the place where the land is situated in the case of real estate, and at the place where the decedent was a resident at the time of his death in the case of personal property. Where there is no recognized custom as to rights of inheritance of adopted children, a child adopted under this chapter shall inherit from his adopting parents the same as if he were the natural child of the adopting parents, and he may also inherit from his natural parents and kindred the same as if no adoption has taken place.

Source: TTC §710 (1966); 39 TTC §255 (1970); 39 TTC §255 (1980)

Note: The phrase “parent or” appeared in the first and final sentences of this section in the 1966 edition of the Trust Territory Code, but was deleted from the 1970 and 1980 editions of the Trust Territory Code. *See* Public Law 3C-51, §1 and §3, 9/22/70.

Cross-reference: *See* 49 PC 1-106.

## CHAPTER 6 CHILD ABUSE

### Section

6-101. Declaration of policy  
6-102. Definitions  
6-103. Reporting procedure

6-104. Immunity of reporting persons from liability  
6-105. Physician-patient privilege not applicable  
6-106. Violations; penalties

**§6-101. Declaration of policy.** — It is the policy of the Pohnpei Government to provide for the protection of children who have injuries inflicted upon them and who, in the absence of appropriate reports concerning their conditions and circumstances, may be further threatened or injured by the conduct of those responsible for their care and protection.

Source: P.L. No. 7-131, §1; 39 TTC §451 (1980)

**§6-102. Definitions.** — When used in this chapter, unless the specific content indicates otherwise:

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

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

(3) “Person” means any physician, dentist, including interns, health assistant, medex, nurse, practical nurse, schoolteacher or other school official, day care worker, peace officer or law enforcement official.

Source: P.L. No. 7-131, §2; 39 TTC §452 (1980)

**§6-103. Reporting procedure.** — Every person examining, attending, teaching or treating a child and having reason to believe that such child has had serious injury or injuries, either physical or mental, inflicted upon him or her as a result of abuse, shall report the matter promptly to the Chief of the Division of Police and Security involved; PROVIDED, that when attendance with respect to a child is pursuant to the performance of services as a member of the staff of a state hospital or a government medical facility in the state capital, such staff member shall immediately notify the Director of the Department of Health Services or another person in charge who shall make the report forthwith. If the person attending a child is a schoolteacher or other school official he shall report such abuse to his supervisor or other person in charge of the school and such matter shall then be promptly reported by the latter to the Chief of the Division of Police and Security. If the report is not made in writing in the first instance, it shall be reduce to writing by the maker thereof as soon as possible after it is initially made by telephone or otherwise, and shall contain the name and address of the child and his or her parents or other persons responsible for his or her care if known, the child’s age, the nature and extent of the child’s injuries, including any evidence of previous injuries, and any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor.

Source: P.L. No. 7-131, §3; 39 TTC §453 (1980)

**§6-104. 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 (1980)

**§6-105. Physician-patient privilege not applicable.** — In any proceeding resulting from a report made pursuant to this chapter or in any proceeding where such a report or any contents thereof are sought to be introduced in evidence, such report or contents or any other facts or facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege.

Source: P.L. No. 7-131, §5; 39 TTC §455 (1980)

**§6-106. Violations; penalties.** — Anyone knowingly and willfully violating the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both such fine and imprisonment.

Source: P.L. No. 7-131, §6; 39 TTC §456 (1980)

(Next page is Title 52 divider)