

**19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE**

**CHAPTER 8
DISSOLUTION OF MARRIAGE**

- Article 1. Nullity.
- Article 2. Dissolution of Marriage.
- Article 3. Causes for Denying Dissolution of Marriage.
- Article 4. General Provisions.

**ARTICLE 1
NULLITY**

- § 8101. Annulling Marriages Generally.
- § 8102. Commencement of Action.
- § 8103. Annulment and Legitimacy of Children.
- § 8104. Judgment.

§ 8101. Annulling Marriages Generally.

A marriage may be annulled for any of the following causes, existing at the time of the marriage:

(a) That the party in whose behalf it is sought to have the marriage annulled was under the age of legal consent, and such marriage was contracted without the consent of his or her parents, or guardian, or person having charge of him or her; unless, after attaining the age of consent, such party for any time freely cohabited with the other as husband or wife.

(b) That the former husband or wife of either party was living, and the marriage with such former husband or wife was then in force.

(c) That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife.

(d) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband or wife.

(e) That the consent of either party was obtained by force, unless such party afterwards freely cohabited with the other as husband or wife.

(f) That either party was, at the time of marriage, physically

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

incapable of entering into the marriage state, and such incapacity continues, and appears to be incurable.

SOURCE: CC §82.

§ 8102. Commencement of Action.

An action to obtain a decree of nullity of marriage, for causes mentioned in the preceding section, must be commenced within the periods and by the parties, as follows:

(a) For causes mentioned in subdivision (a): by the party to the marriage who was married under the age of legal consent, within four (4) years after arriving at the age of consent; or by a parent, guardian, or other person having charge of such nonaged male or female, at any time before such married minor has arrived at the age of legal consent.

(b) For causes mentioned in subdivision (b): by either party during the life of the other, or by such former husband or wife.

(c) For causes mentioned in subdivision (c): by the party injured, or relative or guardian of the party of the unsound mind, at any time before the death of either party.

(d) For causes mentioned in subdivision (d): by the party injured, within four (4) years after the discovery of the facts constituting the fraud.

(e) For causes mentioned in subdivision (e): by the injured party, within four (4) years after the marriage.

(f) For causes mentioned in subdivision (f): by the injured party, within four (4) years after the marriage.

SOURCE: CC §83.

§ 8103. Annulment and Legitimacy of Children.

A judgment of nullity of marriage does not affect the legitimacy of children conceived or born before the judgment, and the court may, during the pendency of the action, or at the time judgment is rendered or at any time thereafter make such order for the custody, care, education, maintenance, and support of such children during the minority as may seem necessary or proper; except that the court must award the custody of the children or a marriage annulled on the ground of fraud or force to the innocent parent.

SOURCE: CC §84.

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

§ 8104. Judgment.

A judgment of nullity of marriage rendered is conclusive only as against the parties to the action and those claiming under them.

SOURCE: CC §86.

ARTICLE 2
DISSOLUTION OF MARRIAGE

- § 8201. Marriage, How Dissolved.
- § 8202. Decree of Dissolution.
- § 8203. Causes.
- § 8204. Adultery.
- § 8205. Extreme Cruelty.
- § 8206. Desertion.
- § 8207. Desertion, How Manifested.
- § 8208. Fraud, Desertion.
- § 8209. Absence, Cruelty; Not Desertion.
- § 8210. Separation by Consent; Not Desertion.
- § 8211. Desertion Generally.
- § 8212. Consent Revocable.
- § 8213. Desertion, Cured, Generally.
- § 8214. Husband's Home.
- § 8215. Husband, Decent Residence.
- § 8216. Willful Neglect.
- § 8217. Habitual Intemperance.
- § 8218. Same, One Year.
- § 8219. Irreconcilable Differences.

§ 8201. Marriage, How Dissolved.

Marriage is dissolved only:

- (a) By the death of one of the parties; or
- (b) By the judgment of a court of competent jurisdiction decreeing a dissolution of marriage.

SOURCE: CC §90.

§ 8202. Decree of Dissolution.

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

The effect of a judgment decreeing a dissolution of marriage is to restore the parties to the state of unmarried persons.

SOURCE: CC §91.

§ 8203. Causes.

Dissolution of marriage may be granted for any of the following causes:

- (a) Adultery.
- (b) Extreme cruelty.
- (c) Willful desertion.
- (d) Willful neglect.
- (e) Habitual intemperance.
- (f) Conviction of Felony.
- (g) Irreconcilable differences.

SOURCE: CC §92. Subsection (g) added by P.L. 24-134:3.

§ 8204. Adultery.

Adultery is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife.

SOURCE: CC §93.

§ 8205. Extreme Cruelty.

Extreme cruelty is the wrongful infliction of grievous bodily injury, or grievous mental suffering, upon the other by one party to the marriage.

SOURCE: CC §94.

§ 8206. Desertion.

Willful desertion is the voluntary separation of one of the married parties from the other with the intent to desert.

SOURCE: CC §95.

§ 8207. Desertion, How Manifested.

Persistent refusal to have reasonable matrimonial intercourse as husband and wife, when health or physical condition does not make such refusal reasonably necessary, or the refusal of either party to dwell in the same house with the other party when there is not just cause for such refusal, is desertion.

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

SOURCE: CC §96.

§ 8208. Fraud, Desertion.

When one party is induced by the stratagem or fraud of the other party to leave the family dwelling place, or to be absent, and during such absence the offending party departs with intent to desert the other, it is desertion by the party committing the stratagem or fraud, and not by the other.

SOURCE: CC §97.

§ 8209. Absence, Cruelty; Not Desertion.

Departure or absence of one party from the family dwelling place, caused by cruelty or by threats of bodily harm from which danger would be reasonably apprehended from the other is not desertion by the absent party, but it is desertion by the other party.

SOURCE: CC §98.

§ 8210. Separation by Consent; Not Desertion.

Separation by consent, with or without the understanding that one of the parties will apply for a dissolution of marriage, is not desertion.

SOURCE: CC §99.

§ 8211. Desertion Generally.

Absence or separation, proper in itself, becomes desertion whenever the intent to desert is fixed during such absence or separation.

SOURCE: CC §100.

§ 8212. Consent Revocable.

Consent to separation is a revocable act, and if one of the parties afterwards, in good faith, seeks a reconciliation and restoration, but the other refuses it, such refusal is desertion.

SOURCE: CC §101.

§ 8213. Desertion, Cured, Generally.

If one party deserts the other, and before the expiration of the statutory period required to make the desertion a cause of dissolution of marriage, returns and offers in good faith to fulfill the marriage contract, and solicits condonation, the desertion is cured. If the other party refuses such offer and condonation, the refusal shall be deemed and treated as desertion by such party from the time of refusal.

**19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE**

SOURCE: CC §102.

§ 8214. Husband's Home.

The husband may choose any reasonable place or mode of living, and if the wife does not conform thereto, it is desertion.

SOURCE: CC §103.

§ 8215. Husband, Decent Residence.

If the place or mode of living selected by the husband is unreasonable and grossly unfit, and the wife does not conform thereto, it is desertion on the part of the husband from the time her reasonable objections are made known to him.

SOURCE: CC §104.

§ 8216. Willful Neglect.

Willful neglect is the neglect of the husband to provide for his wife the common necessities of life, he having the ability to do so; or it is the failure to do so by reason of idleness, profligacy, or dissipation.

SOURCE: CC §105.

§ 8217. Habitual Intemperance.

Habitual intemperance is that degree of intemperance from the use of intoxicating drinks which disqualifies the person a great portion of the time from properly attending to business, or which reasonably inflict a course of great mental anguish upon the innocent party.

SOURCE: CC §106.

§ 8218. Same, One Year.

Willful desertion, willful neglect, or habitual intemperance must continue for one (1) year before any is a ground for dissolution of marriage.

SOURCE: CC §107.

§ 8219. Irreconcilable Differences.

Irreconcilable differences are those grounds which are determined by the Court to be substantial reasons for not continuing the marriage and which make it appear that the marriage should be dissolved.

SOURCE: Added by P.L. 24-134:4.

**19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE**

**ARTICLE 3
CAUSES FOR DENYING DISSOLUTION OF MARRIAGE**

- § 8301. Dissolution Denied; Showing.
- § 8302. Connivance.
- § 8303. Corrupt Consent.
- § 8304. Collusion.
- § 8305. Condonation.
- § 8306. Requisite to Same.
- § 8307. Condonation, What Implies.
- § 8308. Condonation, Evidence.
- § 8309. Condonation, When Can Only be Made.
- § 8310. Void Condonation.
- § 8311. Revocation.
- § 8312. Recrimination.
- § 8313. Defense, Condonation.
- § 8314. Dissolution, Denied, When.
- § 8315. Time and Presumption.
- § 8316. Presumption Denied.
- § 8317. Limitations.
- § 8318. Residence of Parties.
- § 8319. Residence, Presumption of Jurisdiction.
- § 8320. Default, When Allowed.
- § 8321. Decision, Interlocutory Judgment.
- § 8322. Final Decree After Six Months Period.
- § 8323. Confidential Hearing.
- § 8324. Records Sealed.

§ 8301. Dissolution Denied; Showing.

Dissolution of marriage must be denied upon showing:

- (a) Connivance; or
- (b) Collusion; or
- (c) Condonation; or
- (d) Recrimination; or
- (e) Limitation and lapse of time.

SOURCE: CC §111.

§ 8302. Connivance.

Connivance is the corrupt consent of one party to the commission of the act(s) of the other, constituting the cause of dissolution of marriage.

SOURCE: CC §112.

§ 8303. Corrupt Consent.

Corrupt consent is manifested by passive permission, with intent to connive at or actively procure the commission of the acts complained of.

SOURCE: CC §113.

§ 8304. Collusion.

Collusion is an agreement between husband and wife that one of them shall commit, or appear to have committed, or to be represented in court as having committed, acts constituting a cause of dissolution of marriage, for the purpose of enabling the other to obtain a dissolution of marriage.

SOURCE: CC §114.

§ 8305. Condonation.

Condonation is the conditional forgiveness of a matrimonial offense constituting a cause of dissolution of marriage.

SOURCE: CC §115.

§ 8306. Requisite to Same.

The following requirements are necessary to condonation:

(a) A knowledge on the part of the condoner of the facts constituting the cause of dissolution of marriage;

(b) Reconciliation and remission of the offense by the injured party;

(c) Restoration of the offending party to all marital rights.

SOURCE: CC §116.

§ 8307. Condonation, What Implies.

Condonation implies a condition subsequent; that the forgiving party must be treated with conjugal kindness.

SOURCE: CC §117.

§ 8308. Condonation, Evidence.

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

Where the cause of dissolution of marriage consists of a course of offensive conduct, or arises, in cases of cruelty from excessive acts of ill-treatment which may, aggregately, constitute the offense, cohabitation, or passive endurance, or conjugal kindness, shall not be evidence of condonation of any of the acts constituting such cause, unless accompanied by an express agreement to condone.

SOURCE: CC §118.

§ 8309. Condonation, When Can Only be Made.

In cases mentioned in the last section, condonation can be made only after the cause of dissolution of marriage has become complete, as to the acts complained of.

SOURCE: CC §119.

§ 8310. Void Condonation.

A fraudulent concealment by the condonee of facts constituting a different cause of dissolution of marriage from the one condoned, and existing at the time of condonation, avoids such condonation.

SOURCE: CC §120.

§ 8311. Revocation.

Condonation is revoked and the original cause of dissolution of marriage revived:

(a) When the condonee commits acts constituting a like or other cause of dissolution of marriage; or

(b) When the condonee is guilty of great conjugal unkindness, not amounting to a cause of dissolution of marriage, but sufficiently habitual and gross to show that the conditions of condonation had not been accepted in good faith or not fulfilled.

SOURCE: CC §121.

§ 8312. Recrimination.

Recrimination is a showing by the defendant of any cause of dissolution of marriage against the plaintiff, in bar of the plaintiff's cause of dissolution of marriage.

SOURCE: CC §122.

§ 8313. Defense, Condonation.

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

Condonation of a cause of dissolution of marriage, shown in the answer as a recriminatory defense, is a bar to such defense, unless the condonation be revoked, as provided in § 8311, or two (2) years have elapsed after the condonation, and before the accruing or completion of the cause of dissolution of marriage against which the recrimination is shown.

SOURCE: CC §123.

§ 8314. Dissolution, Denied, When.

A dissolution of marriage must be denied:

(a) When the cause is adultery and the action is not commenced within two (2) years after the commission of the act of adultery, or after its discovery by the injured party; or

(b) When the cause is conviction of a felony, and the action is not commenced before the expiration of two (2) years from conviction and sentence.

(c) In all other cases when there is an unreasonable lapse of time before the commencement of the action.

SOURCE: CC §124.

§ 8315. Time and Presumption.

Unreasonable lapse of time is such a delay in commencing the action as establishes the presumption that there has been a connivance, collusion, or condonation of the offense, or full acquiescence in the same, with intent to continue the marriage relation notwithstanding the commission of such offense.

SOURCE: CC §125.

§ 8316. Presumption Denied.

The presumption arising from lapse of time may be rebutted by showing reasonable grounds for the delay in commencing the action.

SOURCE: CC §126.

§ 8317. Limitations.

There are no limitations of time for commencing actions for dissolution of marriage, except such as are contained in § 8314.

SOURCE: CC §127.

§ 8318. Residence of Parties.

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

(a) A divorce or dissolution of marriage may be granted if one (1) of the parties has been a resident of Guam for at least ninety (90) days immediately preceding the filing of a complaint for divorce, or dissolution of marriage. For purposes of this Section, a person shall be deemed a resident if one (1) of the parties has been assigned with the U.S. Military to a unit on Guam or a ship home-ported in Guam for at least ninety (90) days immediately preceding the filing of a complaint for divorce or dissolution of marriage or if one (1) of the parties is physically present in Guam for at least ninety (90) days immediately preceding the filing of a complaint for divorce or dissolution of marriage. Physical presence by one of the parties in Guam for a period of ninety (90) days prior to filing of the action for divorce or dissolution of marriage shall give rise to a conclusive presumption of compliance with this Section.

(b) If both parties consent in writing to a divorce or dissolution of their marriage, a divorce or dissolution may be granted if one of the parties has resided in Guam for at least seven (7) days immediately preceding the filing of the complaint.”

SOURCE: CC § 128, amended by P.L. 13-165:3, as R/R by P.L. 17-81:26. Repealed/reenacted by P.L. 19-34:28. Amended by P.L. 27-129:1. Amended by P.L. 28-093:2 (Dec. 12, 2005), effective January 1, 2006.

COURT DECISIONS: Sections 8318 (prior to P.L. 27-129:1) and 8319 [Sections 128 and 129 of the Civil Code] have been declared to be contrary to the Organic Act of Guam in the case of *McAllister v. McAllister*, Dom. Case No. 1263-87 (Superior Court, 1988). The grounds stated were that these two sections were not laws of “local application” under the Supreme Court case of *Granville-Smith v. Granville-Smith*, 349 U.S. 1, 75 S.Ct. 553 (1955). Rather, these sections went beyond matters of “local application”, seeking to encourage persons not residents of Guam to obtain divorces in Guam.

§ 8319. Residence, Presumption of Jurisdiction.

(a) In actions for dissolution of marriage, neither the domicile nor residence of the husband shall be deemed to be the domicile or residence of the wife. For the purposes of such an action, each may have a separate domicile or residence depending upon proof of the fact and not upon legal presumptions. Physical presence in Guam for ninety (90) days next preceding the commencement of the action shall give rise to a conclusive presumption of residence in Guam as required by § 8318 of this Chapter. Allegations and proof of residence or other compliance with the requirements of § 8318 of this Chapter shall be pled or proved in any divorce or dissolution of marriage granted upon the consent of the

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

Defendant, and the court shall make findings as to residency of any party to a divorce or dissolution of marriage or as to compliance with the requirements of § 8318 of this Chapter in any divorce or dissolution of marriage granted upon the consent of the Defendant. Residency must be pled and proved in all divorces or other actions for dissolutions of marriage. Only the parties (i.e., the husband or wife) or the court can raise the issue of or object to the jurisdiction of the Superior Court of Guam in an action for divorce or dissolution of marriage, residence of the parties, or other compliance with § 8318 of this Chapter in any case even where the defendant has consented to the divorce or dissolution of marriage. The Superior Court of Guam is not presumed to have jurisdiction over any action for divorce or dissolution of marriage which may be filed in the Superior Court of Guam because the defendant consents.

(b) All consents to a divorce or dissolution of marriage must be acknowledged or verified before a notary public or other officer authorized to administer oaths within the United States if signed in the United States, acknowledged or verified before a consular officer of the United States or other United States official authorized to take oaths if signed outside the United States, or have a notarized acknowledgement or verification by a foreign notary which is authenticated by a United States consular officer.

SOURCE: CC § 129, R/R by P.L. 17-81:27. Repealed/reenacted by P.L. 19-34:28 (effective date 12/19/88). Amended by P.L. 28-093:1 (Dec. 12, 2005), effective January 1, 2006.

§ 8320. Default, When Allowed.

No dissolution of marriage can be granted upon the uncorroborated statement, admission or testimony of the parties in any contested action for dissolution of marriage, but the court must require proof of the facts alleged. In the event of uncontested, consent or default divorce actions, the court may grant a divorce based upon the verified complaint of the Plaintiff or Petitioner if it appears to be in the interests of justice. Any corroboration or evidence which the court may require in default, consent, or other uncontested divorces shall be in the form of sworn affidavits.

SOURCE: CC §130 as R/R by P.L. 17-81:28.

§ 8321. Decision, Interlocutory Judgment.

In actions for dissolution of marriage, the Court must file its decision and conclusions of law as in other cases, and if it determines that no dissolution of marriage shall be granted, final judgment must thereupon be

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

entered accordingly. If it determines that the dissolution of marriage ought to be granted, interlocutory judgment must be entered, declaring that the party in whose favor the court decides is entitled to a dissolution of marriage. After the entry of the interlocutory judgment, neither party shall have the right to dismiss the action without the consent of the other. An interlocutory decree of divorce granted pursuant to the provisions of this § 8321 must include the social security numbers of both parties, and of all children.

SOURCE: CC §131. Amended by P.L. 24-129:27.

§ 8322. Final Decree of Divorce after Six (6) Months Period.

When six (6) months have expired after filing of the initial petition or complaint for divorce, and following entry of an interlocutory decree of divorce, the court on motion of either party, or upon its own motion, may enter the final judgment granting the dissolution of marriage, which final judgment shall restore the parties to status as single persons. This six (6) months waiting period after the filing of petition or complaint may be shortened by the Court upon application by either party, upon showing a cause to shorten the time. The Court may also enter such other orders as may be necessary to complete the disposition of the action. If an appeal is filed by either party, the final decree may not be entered until the appeal has been disposed of by the appellate courts, and in any event may not be entered if the judgment granting the interlocutory divorce is reversed on appeal. If either party dies after entry of an interlocutory divorce, but before entry of the final decree of divorce, the Court shall enter a final decree of divorce, effective nunc pro tunc to the date of entry of the interlocutory decree of divorce. A final decree of divorce granted pursuant to the provisions of this § 8322 must include the social security number of both parties, and of all children.

SOURCE: CC §132 as amended by P.L. 13-165:1 and R/R by P.L. 17-81:29.
Amended by P.L. 24-129:28.

§ 8323. Confidential Hearing.

Notwithstanding any other law, in any domestic or child support case court hearing or proceeding, including for dissolution of marriage, the Court may close the hearing or proceeding to the public, upon motion by any party to the action and a showing of good cause.

SOURCE: Added by P.L. 24-134:5.

§ 8324. Records Sealed.

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

Notwithstanding any other provision of law, all papers, records, audio recordings, documents and exhibits in a domestic case or child support case, other than a divorce decree, whether part of a court record or record in another government Agency or Department's possession, including the Department of Public Health and Social Services, may be sealed upon motion by any party to the action and a showing of good cause.

SOURCE: Added by P.L. 24-134:6.

ARTICLE 4
GENERAL PROVISIONS

- § 8401. Dissolution of Marriage Denied, Maintenance.
- § 8402. Alimony, Permanent Support.
- § 8403. Minors, Maintenance.
- § 8404. Criteria and Procedure in Awarding Custody.
- § 8404.1. Specialized Visitation Center for Victims of Family Violence.
- § 8405. Family Support.
- § 8406. Security, Maintenance, and Alimony.
- § 8407. Property Liable.
- § 8408. Property Liable Generally.
- § 8409. Legitimacy of Issue.
- § 8410. Same.
- § 8411. Disposition of Community Property.
- § 8412. Same.
- § 8413. Division of Real Property Situated in Another Jurisdiction.
- § 8414. Appealable Order.
- § 8415. Decrees of Divorce and Annulments of Marriage;
Transmission.
- § 8416. Name Restoration in Final Decree.

§ 8401. Dissolution of Marriage Denied, Maintenance.

Though judgment of dissolution of marriage is denied, the court may, in an action for dissolution of marriage, provide for the maintenance by either spouse of the other and the children of the marriage, children of either spouse adopted by the other or any of them.

SOURCE: CC §136 as amended by P.L. 15-113:3.

§ 8402. Alimony, Permanent Support.

When an action for dissolution of marriage is pending, the court may, in its discretion, require the husband or wife, as the case may be, to pay as alimony any money necessary to enable the wife, or husband, to support herself and her children, or to support himself and his children, or prosecute or defend the action. When the husband or wife willfully deserts the wife or husband, or when the husband or wife has any cause of action for dissolution of marriage as provided in § 8203 of this Title, he or she may, without applying for dissolution of marriage, maintain in the Superior Court an action against her or him for permanent support and maintenance of himself or herself or of himself and children or of herself and children. When the husband willfully fails to provide for the wife, she may, without applying for dissolution of marriage, maintain in the Superior Court an action against him for permanent support and maintenance of herself or of herself and children.

During the pendency of any such action the court may, in its discretion, require the husband or wife, as the case may be, to pay as alimony any money necessary for the prosecution of the action and for support and maintenance, and execution may issue therefor in the discretion of the court. The court, in granting the husband or wife permanent support and maintenance of himself or herself, or of himself and children or herself and children, in any such action, shall make the same disposition of the community property and of the homestead, if any, as would have been made if the marriage had been dissolved by the decree of a court of competent jurisdiction. The final judgment in such action may be enforced by the court by such order or orders as in its discretion it may from time to time deem necessary, and such order or orders may be varied, altered, or revoked at the discretion of the court.

SOURCE: CC §137.

§ 8403. Minors, Maintenance.

In actions for dissolution of marriage the court may, during the pendency of the action, or at the final hearing, or at any time thereafter during the minority of any of the children of the marriage, make such order for the care, education, maintenance, and support of such minor children as may seem necessary or proper, and may at any time modify or vacate the same.

SOURCE: CC §138.

§ 8404. Criteria and Procedure in Awarding Custody.

(1) In actions for divorce, separation, annulment, separate maintenance, or any other proceeding where there is at issue a dispute as to the custody of a minor child, the court may, during the minority of the child, make such order for the custody of such minor child as may seem necessary or proper. In awarding the custody, the court is to be guided by the following standards, considerations and procedures:

(a) Custody should be awarded to either parent according to the best interest of the child.

(b) Custody may be awarded to persons other than the father or mother whenever such award serves the best interest of the child. Any person who has had de facto custody of the child in a stable and wholesome home and is a fit and proper person shall prima facie be entitled to an award of custody.

(c) If a child is of sufficient age and capacity to reason, so as to form an intelligent preference, his wishes as to custody shall be considered and be given due weight by the court.

(d) Whenever good cause appears therefor, the court may require an investigation and report concerning the care, welfare and custody of any minor child of the parties. When so directed by the court, professional personnel of the Department of Public Health and Social Services shall assist the court by making investigations and reports which shall be made available to all interested parties and counsel before hearing, and such reports may be received in evidence if no objection is made and, if objection is made, may be received in evidence provided the person or persons responsible for such report are available for cross-examination as to any matter which has been investigated.

(e) The court may hear the testimony of any person or expert produced by any party or upon the court's own motion, whose skill, insight, knowledge or experience is such that his testimony is relevant to a just and reasonable determination of what is to the best physical, mental, moral and spiritual well-being of the child whose custody is at issue.

(f) Any custody award shall be subject to modification or change whenever the best interests of the child require or justify such modification or change, and whenever practicable, the same person

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

who made the original order shall hear the motion or petition for modification of the prior award.

(g) Reasonable visitation rights shall be awarded to parents and grandparents and to any other person interested in the welfare of the child in the discretion of the court, unless it is shown that such rights of visitation are detrimental to the best interests of the child.

(h) It is legislative policy that children spend as much time with each of their parents as possible, when the parents are not living together. Therefore, in determining visitation of minor children on Guam with non-custodial parents living on Guam, the court shall, to the greatest degree possible, order visitation for minor children (pendente lite and permanently) with non-custodial parents such that the children spend more or less equal amounts of time with the custodial parent and the non-custodial parent during non-working, non-sleeping, non-school time, subject to the following:

(1) The proposed visitation is not found by the court, on evidence presented, to be injurious to the welfare of the child;

(2) The non-custodial parent is willing to accept such visitation;

(3) The non-custodial parent is not found by the Court to be an unfit person to have such visitation;

(4) The visitation is not found by the Court to interfere with the child's schooling;

(5) Unless the Court finds that it is not in the best interests of the child, non-custodial parents or the children's grandparents shall be given consideration in providing child-care for their minor children or grandchildren, when visitation orders are prepared;

(6) In determining visitation rights under this subsection (h), the court shall take into account the employment of each parent and the time the child spends in school or in extracurricular activities;

(7) Based on proof presented, the court may take into account other factors respecting visitation which would affect the welfare of the minor child or children;

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

(8) The court may also take into account the time a child spends with each parent and the expense incident thereto in awarding child support;

(9) The court may make such orders as are appropriate in carrying out the provisions of this subsection (h);

(10) This subsection (h) shall be effective only as to actions or motions filed after its effective date, and shall not apply to any actions or motions filed prior to its effective date. In addition, enactment of this subsection (h) shall not, in and of itself, constitute a change in circumstances as to warrant the re-opening of custody proceedings for which orders had been entered prior to such enactment.

(i) It is legislative policy that children should not be exposed to family violence because, even when they are not themselves physically assaulted, they suffer deep and lasting emotional effects from exposure to family violence; and

(j) The Court may award visitation or custody to a parent who committed family violence only if the Court finds that adequate provision for the safety of the child and the parent who is a victim of family violence can be made; and

(k) In every proceeding in which there is at issue the modification of an order for custody or visitation of a child, the finding that family violence has occurred since the last custody or visitation determination constitutes a finding of a change of circumstances; and

(l) In a custody or visitation order, a Court may:

(1) order an exchange of a child to occur in a protected setting;

(2) order visitation supervised by another person or agency;

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

(3) order perpetrator(s) of family violence to attend and complete, to the satisfaction of the Court, a program of intervention for perpetrators or other designated counseling as a condition of the visitation;

(4) order either parent or other party to a custody or visitation order to abstain from consumption of alcohol or other intoxicants during the visitation and for twenty-four (24) hours preceding the visitation;

(5) order perpetrator(s) of family violence to pay a fee to defray the costs of supervised visitation, or to pay for the services of a guardian ad litem appointed by the court;

(6) prohibit overnight visitation;

(7) require a bond from perpetrator(s) of family violence for the return and safety of the child; or

(8) impose any other condition that is deemed necessary to provide for the safety of a child, a victim of family violence, or other family or household member.

(m) Whether or not visitation is allowed, the Court may order the address of a child or a victim to be kept confidential.

(n) If the Court allows a family or household member to supervise visitation, the Court may establish conditions to be followed during visitation.

(o) In addition to other factors that the Court must consider in a proceeding in which the custody of a child, or visitation by a parent is at issue and in which the Court has made a finding that family violence has occurred:

(1) the court shall consider as primary the safety and well-being of the child(ren) and of a parent or guardian who is the victim of family violence; and

(2) the court shall consider the perpetrator's history of causing or attempting to cause bodily injury to another family or household member; or placing a family or household member in fear of bodily injury.

(p) If a parent or guardian is absent or relocates because of an act of family violence by the other parent, the absence or relocation is not

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

a factor that weighs against the parent or guardian in determining custody or visitation, so long as the child(ren) are not removed from Guam without prior Court authorization.

(2) Mediation.

(a) Unless otherwise provided by law, the Court, in cases pursuant to this Section may order the parties to be referred to Mediation with respect to custody and visitation in accordance with the standards set forth in Part 1 of this Section and rules and regulations established and promulgated by the Supreme Court of Guam.

(b) The Supreme Court of Guam shall establish and promulgate any rules and regulations necessary to carry out the provisions of this Section, and mediators shall be selected and compensated in accordance with rules and regulations established by the Court. The rules and regulations promulgated by the Supreme Court pursuant to this Section shall be submitted to *I Liheslaturan Guåhan* for approval. Said rules and regulations shall be deemed approved unless otherwise acted upon by *I Liheslaturan Guåhan* within ninety (90) days of receipt.

(c) Mediation should be accessible to all parties regardless of financial status, and the Judicial Council of Guam is authorized to enact fees to implement the provisions of this Section.

SOURCE: CC §138.1. Subsection (g) amended by P.L. 14-64:1. Subsection (h) added by P.L. 19-53:2. Subsections (i) - (p) added by P.L. 24-239:22-29. Part 2 added by P.L. 27-79 (May 6, 2004).

§ 8404.1. Specialized Visitation Center for Victims of Family Violence.

(a) The Court shall provide or contract for at least one (1) visitation center for victims of family violence and their children to allow Court-ordered visitation in a manner that protects the safety of all family members. Other governmental agencies shall cooperate with the Court and other organization in providing the visitation centers.

(b) A visitation center must provide:

(1) a secure setting and specialized procedures for supervised visitation and the transfer of children for visitation;

(2) supervision by a person trained in security and the avoidance of family violence; and

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

(3) educational and recreational equipment to facilitate positive family interaction.

SOURCE: Added by P.L. 24-239:30 as § 8404(a). Renumbered by Compiler.

§ 8405. Family Support.

When a dissolution of marriage is granted, the tribunal shall provide for the medical care, support, reasonable education and maintenance of the children of the marriage and children of either spouse adopted by the other as required by Chapter 34 of Title 5 of the Guam Code Annotated and to make such suitable allowance to the other spouse for that person's support, during that person's life or for a shorter period, as the Court may deem just, having regard to the circumstances of the parties respectively; and the Court may, from time to time, modify its order in these respects.

SOURCE: CC §139 as amended by P.L. 15-113:4. Amended by P.L. 24-129:26.

§ 8406. Security, Maintenance, and Alimony.

The court may require the husband or wife, as the case may be, to give reasonable security for providing maintenance or making any payments required under the provisions of this Chapter, and may enforce the same by the appointment of receiver, or by any other remedy applicable to the case.

SOURCE: CC §140.

§ 8407. Property Liable.

In executing the five (5) preceding Sections, the court must resort:

(a) to the community property, then,

(b) to the separate property of the spouse required to make payment.

SOURCE: CC §141 as amended by P.L. 15-113:5.

NOTE: §142 CC was repealed by P.L. 15-113:22.

§ 8408. Property Liable Generally.

The community property and the separate property may be subjected to the support and education of the children in such proportions as the court deems just.

SOURCE: CC §143.

NOTE: §143.1 CC was repealed by P.L. 18-17:4.

§ 8409. Legitimacy of Issue.

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

When a dissolution of marriage is granted for the adultery of the husband, the legitimacy of the children of the marriage begotten of the wife before the commencement of the action is not affected.

SOURCE: CC §144.

§ 8410. Same.

When a dissolution of marriage is granted for the adultery of the wife, the legitimacy of children begotten of her before the commission of the adultery is not affected; but the legitimacy of other children of the wife may be determined by the court, upon the evidence in the case.

SOURCE: CC §145.

§ 8411. Disposition of Community Property.

In case of the dissolution of marriage by the decree of a court of competent jurisdiction, the community property, and the homestead, shall be assigned as follows:

(a) If the decree be rendered on the ground of adultery or extreme cruelty, the community property shall be assigned to respective parties in such proportions as the court, from all the facts in the case, and the condition of the parties, may deem just.

(b) If the decree be rendered on any other ground than that of adultery or extreme cruelty, the community property shall be equally divided between the parties.

(c) If a homestead has been selected from the community property, it may be assigned to the innocent party, either absolutely, or for a limited period, subject in the latter case to the future disposition of the court, or it may in the discretion of the court be divided, or be sold and the proceeds divided.

(d) If a homestead has been selected from the separate property of either, it shall be assigned to the former owner of such property, subject to the power of the court to assign it for a limited time to the innocent party.

SOURCE: CC §146.

§ 8412. Same.

The court, in rendering a decree of dissolution of marriage, must make such order for the disposition of the community property, as in this Chapter

19 GCA PERSONAL RELATIONS
CH. 8 DISSOLUTION OF MARRIAGE

provided, and, whenever necessary for that purpose, may order a partition or sale of the property and a division or other disposition of the proceeds.

SOURCE: CC §147.

§ 8413. Division of Real Property Situated in Another Jurisdiction.

(a) If the property subject to division under § 8412 of this Title includes real property situated in another jurisdiction, the Superior Court shall, if possible, divide the property in such a manner that it is not necessary to change the state of the title to the real property situated outside Guam.

(b) If it is not possible to divide the property in the manner directed in Subsection (a) of this Section, the court may require either or both parties to execute such conveyances and take such other actions with respect to the real property situated outside Guam, and make such other orders or awards, as are necessary to divide the property between the parties in accordance with law.

SOURCE: Enacted as §147.1 CC by P.L. 15-113:6.

§ 8414. Appealable Order.

The disposition of the community property and of the homestead, as above provided, is subject to revision on appeal in all particulars including those which are stated to be in the discretion of the court.

SOURCE: CC §148.

§ 8415. Decrees of Divorce and Annulments of Marriage; Transmission.

The Clerk of the Superior Court shall transmit on or before the 10th day of each month to the Office of Vital Statistics, Department of Public Health and Social Services, a certified abstract of all decrees of divorces and annulments of marriages recorded by him during the preceding month.

SOURCE: CC §149.

§ 8416. Name Restoration in Final Decree.

At the request of a party requesting his/her own name changed in a divorce proceeding, the court *shall*, in the Final Decree of Divorce, restore that party to the surname he or she had before marriage.

SOURCE: Added by P.L. 29-037:2 (Oct. 25, 2007).
