

THE THIRTIETH LEGISLATURE OF AMERICAN SAMOA

FIRST REGULAR SESSION

Begun and held at Fagatogo, Tutuila, American Samoa
On Monday, the eighth day of January
Two thousand and seven

AN ACT REAUTHORIZING THE TEMPORARY ESTABLISHMENT OF THE "FAMILY, DRUG, AND ALCOHOL COURT" PILOT PROJECT FOR AN ADDITIONAL THREE (3) YEAR PERIOD, AND, WITH APPROVAL OF THE U.S. SECRETARY OF THE INTERIOR, MAKING THE FAMILY, DRUG, AND ALCOHOL COURT A PERMANENT DIVISION OF THE HIGH COURT BY LATER REPEALING SECTION 3.0505 A.S.C.A.; RECREATING CHAPTER 5 UNDER TITLE 3 A.S.C.A.

Preamble:

In 2000 the Legislature enacted the temporary Family, Drug, and Alcohol Court Act which was signed by the Governor and approved by the U.S. Secretary of the Interior. The act was extended and in 2004 the Legislature recommended this necessary and beneficial judicial program be made permanent by extending the act until 1 October 2006 and, with the approval of the U.S. Secretary of the Interior pursuant to Secretary's Order 2657 as amended, Sec 4. Judicial Authority, repealing the sunset provision under Sec 3.0505 A.S.C.A. Inadvertently, the U.S. Secretary of the Interior was not formally presented with the act after its enactment and the sunset provision suspended the act as of 1 October 2006. To promptly reauthorize this temporary pilot project and to formally present this legislation to the U.S. Secretary of the Interior for approval of the Family, Drug, and Alcohol Court as a permanent division of the High Court of American Samoa, Section 1 of this act shall become effective immediately upon the Governor signing this act and Sec 2. of this act shall become effective upon the Governor signing this act and, prior to its promulgation, the U.S. Secretary of the Interior approving the permanent establishment of this division of the High Court of American Samoa pursuant to Sec 4. Judicial Authority, Delimitation of Government Authority, United States Department of the Interiors Secretary's Order No. 2657, as amended.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. There is recreated a Chapter 5 under Title 3 A.S.C.A. which reads:

“Chapter 5

FAMILY, DRUG, AND ALCOHOL COURT

Sections:

- 3.0501 Family, Drug, and Alcohol Court Division—Establishment.
- 3.0502 Jurisdiction and quorum.
- 3.0503 Registries, protective orders and administration and funding.
- 3.0504 Executive branch agencies—Cooperation.
- 3.0505 Sunset provision.

3.0501 Family, Drug, and Alcohol Court Division—Establishment.

Notwithstanding the current statutes providing for the jurisdiction of certain cases before the trial division of the High Court or before the District Court, the Chief Justice may establish by rule or order or both, a Family, Drug, and Alcohol Court Division within the High Court for an indefinite period and transfer any or all such cases as authorized by this statute to that division to be heard and decided. The purpose of this court division is to provide a single venue to comprehensively address all matters affecting families, from juvenile offenses to domestic violence and adoptions to divorce and child support. The Court shall also address in its sentences relating to cases involving violence or alcohol or drug use, appropriate rehabilitation programs, close monitoring, and graduated sanctions to minimize levels of repeat offenders.

3.0502 Jurisdiction and quorum.

(a) The Chief Justice may, by rule or order or both, transfer jurisdiction from the trial division of the High Court and District Court to the Family, Drug, and Alcohol Court Division to hear and decide the following matters:

- (1) any or all juvenile cases including traffic offenders;
- (2) any or all domestic relations cases, including but not limited to, divorce, legal separation, child support, spousal support, paternity, U.R.E.S.A., and domestic violence protective orders, relinquishment/termination of parental rights, and adoptions;
- (3) any or all domestic violence crimes except homicides or other class A felonies; and
- (4) any or all criminal cases in which alcohol or other substance abuse is involved, including serious traffic offenses, except those cases charging possession of controlled substances with intent to distribute and those cases otherwise excluded by the above subsections.

(b) Unless otherwise ordered by the Court, hearings before the Family, Drug, and Alcohol Court Division shall be closed to the general public, when so required by existing statutes or by order of the Court in conformance with the rules of criminal or civil procedure.

(c) The Chief Justice, Associate Justice or Acting Associate Justice and two associate judges shall conduct sessions before the Family, Drug, and Alcohol Court Division of the High Court, the presence of one justice and one associate judge constitute a quorum for the trial and determination of a case or controversy, including trials by jury.

(d) Neither this section nor any other part of this act may be construed to amend or alter the exclusive jurisdiction of the Land and Titles Division of the High Court in all matters relating to matai titles and controversies relating to land as set forth in section 3.0208(b).

(e) Neither this section nor any part of this act may be construed to amend or alter legislatively established penalties for use, possession, or sale of controlled substances.

3.0503 Registries, protective orders and administration and funding.

(a) The Chief Justice may, by order or rule or both, establish such central registries as are necessary to comply with applicable federal laws for domestic violence protective orders, both foreign and those issued locally, and foreign and locally issued child support orders.

(b) The Chief Justice may, by rule or order or both, provide for the issuance of protective orders for victims of domestic abuse through an expedited hearings process on such forms in English and Samoan as the Court may provide. Emergency, ex parte protective orders shall be accompanied by a notice of a Court hearing on the order to be held within 72 hours of the issuance of such order.

(c) The Chief Justice may authorize the application, acceptance, administration and accounting of any federal or other funding available for the operation, facilities, equipment, staffing and support services for the Family, Drug, and Alcohol Court Division.

3.0504 Executive branch agencies—Cooperation.

All agencies of the government shall cooperate with the High Court in implementing the pilot project for the Family, Drug, and Alcohol Court. The Department of Public Safety shall establish necessary practices and

procedures for registering and enforcing domestic violence protective orders duly filed with or issued by the Court and, in conjunction with the Attorney

General, adopt a pro-arrest, pro-prosecution policy in domestic violence cases and those public and private peace disturbances which involve alcohol or illegal drug use.

3.0505 Sunset provision.

This act unless otherwise amended, revised, or codified by the Legislature and signed into law by the Governor, shall expire and have no further force or effect as of October 1, 2010.

Sec 2. Repealer.

“Section 3.0505 A.S.C.A. is hereby repealed.”

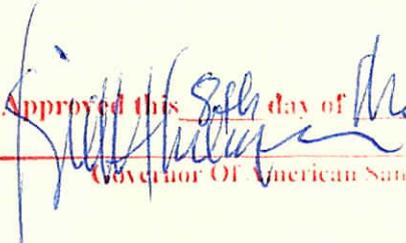
Sec 3. Effective date.

To timely, reauthorize the Family, Drug, and Alcohol Court Division Pilot Project pending final approval of the U.S. Secretary of the Interior of the Legislature’s decision to make the “Family, Drug, and Alcohol Court” a permanent division of the High Court of American Samoa, Section 1. of this act shall become effective immediately upon the Governor signing this act, and Sec 2. of this act shall become effective upon the Governor signing this act and, prior to its promulgation, the U.S. Secretary of the Interior approving the permanent establishment of this division of the High Court of American Samoa pursuant to Sec 4. Judicial authority, Delimitation of Government Authority, United States Department of the Interior Secretary’s Order No. 2657, as amended.

for.

LOLO M. MOLIGA
President of the Senate


SAVALI TALAVOU ALE
Speaker, House of Representatives

Hereby Approved this 8th day of March 2007

Governor Of American Samoa

NOFOA'IGA TOLUSEFULU FONOFAITULAFONO A AMERIKA SAMOA

FONO TELE MUAMUA

Nofoia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso valu o Ianuari
lua afe ma le fitu

O SE TULAFONO E TOE FAATAGA AI ONA FAATU MO SE TAIMI LE TUMAU O LE "FAAMASINOGA MO AIGA, VAILA'AU MA LE ALAKAHOLO" MA TOE FAAOPOPO AI SE ISI 3 TAUSAGA I LEA POROKALAMA FAATA'ITA'I, AE AFAI LOA E MALIE MAI LE FAILAUTUSI O LE INITERIA, ONA AVEA LOA LEA O LENA FAAMASINOGA MA VAEGA TUMAU O LE FAAMASINOGA MAUALUGA E ALA I LE SOLOIA MULIMULI ANE O LE MAGA 3.0505, TTAS; TOE FAAVAE AI LE MATAUPU 5 I LALO O LE ULUTALA 3, TTAS.

Faatomuaga:

O le tausaga e 2000 na faatulafonoina ai e le Fono le Tulafono mo se Faamasinoga le tumau mo Aiga, Vaila'au ma le Alakaholo lea na sainia e le Kovana ma faamaonia mai e le Failautusi o le Initeria. Sa toe faaopopo aso o le tulafono ma o le 2004 na fautuaina ai e le Fono ina ia faatumauina lea porokalama tatau ma le lelei e ala i le faaopoopoina o aso e fai ai seia oo ia Oketopa 1, 2006 ma, a pasia mai e le Failautusi o le Initeria a le Iunaite Setete e tusa ai ma le Poloa'iga 2657 a le Failautusi e pei ona suia ai, Maga 4. Pule Faa-faamasinoga, e soloia ai le aiaiga i toe taimi poo le gagaifo o le la i lenei tulafono i lalo o le Maga 3.0505 TTAS. O le mea ua tupu, sa lei tuuina atu aloa'ia lenei tulafono i le Failautusi o le Initeria ina ua uma ona faatulafonoina, ma o lona uiga la ua faamuta e le aiaiga lea o toe taimi o le tulafono le tulafono lenei e amata i le aso 1 o Oketopa, 2006. Ina ia vave la ona toe faataga lenei porokalama le tumau ma tau'aa atu aloa'ia le tulafono i le Failautusi o le Initeria mo lana maliega mai ina ia ave le Faamasinoga mo Aiga, Vaila'au ma le Alakaholo e fai ma vaega tumau o le Faamasinoga Mauualuga a Amerika Samoa, e tatau la ona aloa'ia vave loa le Maga 1 ma le Maga 2 o lenei tulafono i le taimi e sainia ai e le Kovana ma, a'o lei oo ina faalauaiteleina, ma faamaonia e le Failautusi o le Initeria le faavaeina tumau o lenei vaega o le Faamasinoga Mauualuga a Amerika Samoa e tusa ai ma le Maga 4. Pule Faa-faamasinoga, Tatala le faatapulaaina o le Pule a le Malo, Poloa'iga Numera 2657 a le Failautusi o le Matagaluega a le Initeria a le Iunaite Setete, e pei ona suia ai.

IA FAATULAFONOINA E LE FONO FAITULAFONO A AMERIKA SAMOA:

Maga:

- 3.0501** Vaega o Faamasinoga mo Aiga, Vaila'au, ma le Alakaholo – Faatuina.
- 3.0502** Pule faaletulafono ma le kalama
- 3.0503** Lesitala, poloa'iga e puipui ai, faagaoioia ma pulega ma tupe.
- 3.0504** Ofisa o le lala faamalosi tulafono—Galulue faatasi.
- 3.0505** Aiaiga toe taimi o le tulafono.

- 3.0501** Vaega o Faamasinoga mo Aiga, Vaila'au, ma le Alakaholo—Faatuina.

E le afaina ai tulafono o loo i ai nei lea o loo ta'u mai ai le mea e oo i ai le pule faaletulafono a nisi o mataupu e oo atu i le vaega fai faamasinoga i le Faamasinoga Mauuluga poo le Faamasinoga Maulalo,(faatumalo) e mafai lava e le Faamasinosili ona ia faavaeina e ala i se tulafono galue poo sana faatonuga poo ia foi mea uma e lua, se Vaega o le Faamasinoga mo Aiga, Vaila'au ma Alakaholo i totonu o le Faamasinoga Mauuluga mo se vaitaimi e leai se tapulaa ma avatu uma i ai ni mataupu uma e faatagaina i le tulafono lenei e faamasinoina ai i le vaega lena ma fai ai ni faaiuga. O le agaga moni o lenei vaega o le Fa'amasinoga ina ia tasi ai se nofoaga na te fofogaina mataupu uma lava e aafia ai aiga, mai lava i solitulafono a tamaiti e oo i mataupu o le sauaina i totonu o aiga ma le faatamafai, i le tatalaina o faaiipoipoga ma le tausia o tamaiti . O le a fofogaina foi e le Faamasinoga i le taimi e lau ai ana faasalaga o mataupu e aafia ai le sauaina, le 'avamalosi poo vaila'au faasaina, ni porokalama e toe fuata'iina ai, le vaaia vavalalata, ma faia ni tuutuuga e faasolosolo ai le matuia o le faasalaga e fuafua i le faafia ona e faia o le solitulafono ina ia tuuitiitia ai le saga fai pea lava pea o le solitulafono.

- 3.0502** Pule faaletulafono ma le kalama

(a) E mafai e le Faamasinosili, e ala i se tulafono galue poo se faatonuga poo ia foi mea uma e lua, ona ave le pule mai le vaega faifaamasinoga a le Faamasinoga Mauuluga ma le Faamasinoga Maulalo i le Vaega lea o Faamasinoga mo Aiga, Vaila'au ma le Alakaholo e fofogaina ai ma faia faai'uga o mataupu nei o le a ta'ua:

(1) soo se mataupu poo mataupu uma foi tau tamaiti lava e aafia ai solitulafono tau taavale;

(2) soo se mataupu poo mataupu uma foi i totonu o aiga, e aafia ai ae le gata ai iina, le tatalaga o faaiipoipoga, le nonofo eseese faaletulafono, le tausia o tamaiti, tausia o ta'ito'alua, U.R.E.S.A.; ma faatonuga e puipui ai le tagata sauaina, le aveesea /faamutaina o aia faamatua, ma le faatamafai;

(3) soo se solitulafono poo solitulafono uma foi i sauaga i totonu o aiga vagana ai le fasioti tagata poo isi solitulafono mamafa o le vasega A; ma

(4) soo se mataupu poo mataupu solitulafono uma foi i le faaaogaina o le 'avamalosi poo vaila'au faasaina foi, e aofia ai ma faalavelave matuia tau taavale, vagana ai mataupu o loo tu'ua'ia ai le umia o vaila'au faasaina ma le faamoemoe e tufatufa atu atoa ai ma mataupu o loo aveesea mai i soamaga o loo i luga.

(e) Sei vagana ai e ese se faatonuga/poloa'iga a le Faamasinoga, a'o iloiloga i luma o le Faamasinoga mo Aiga, Vaila'au ma le Alakaholo e le faatagaina ai le mamalu lautele, pe afai o le manaoga lea o loo i ai le tulafono o i ai nei pe ala foi i se faatonuga a le Faamasinoga ina ia tusa ai ma tulafono o le faagasologa o mataupu savili solitulafono foi.

(i) O le Faamasinosili, Faamasinosili Lagolago poo se o loo suitulaga ai ma ni faamasino lagolago se to'alua latou te fofogaina mataupu i le Faamasinoga mo Aiga, Vaila'au ma le Alakaholo, afai lava e i ai se faamasino e toatasi o le Faamasinoga Maualuga ma se faamasino lagolago e toatasi ua atoa le kalama mo se faamasinoga ma le faia o se faaiuga i se mataupu poo se feeseeseaiga e aofia ai ma faamasinoga e faia e se vaega fai faaiuga o faamasinoga (siuri).

(o) E le mafai i le maga lenei poo se isi lava foi vaega o lenei tulafono ona faapea ai e mafai ona suia o le pule faaletulafono a le Vaega o Faamasinoga o Fanua ma Suafa a le Faamasinoga Maualuga i mataupu uma lava e faatatau i suafa matai ma ni feeseeseaiga i fanua e pei ona aiaia i le maga 3.0208 (e)

(u) E le mafai i le maga lenei poo se isi lava foi vaega o lenei tulafono ona faapea ai e mafai ona suia o faasalaga ua uma ona faavaeina e ala i le tulafono mo le faaaogaina, umia, poo le faatauina atu o vaila'au faasaina.

3.0503 Lesitala, poloa'iga e puipui ai, faagaioioia ma pulega ma tupe.

(a) E mafai e le Faamasinosili, e ala i se faatonuga/poloa'iga poo se tulafono galue foi poo ia mea uma e lua, ona faavaeina o ia ofisa tutotonu e tusa ai ma le mea e manaomia ina ia ogatasi ai ma tulafono a le malo tele e mafai ona faaaoga iinei, mo mataupu tau le sauaina i aiga ma faatonuga e puipuia ai, ia faatasi i ai ni faatonuga e faia iinei ma ni faatonuga foi e faia mai fafo, atoa ai ma faatonuga mo le tausia o tamaiti e faia iinei ma fafo foi.

(e) E mafai e le Faamasinosili, e ala i se tulafono galue poo se faatonuga foi poo ia mea uma e lua, ona aiaia le faia o ni faatonuga/poloa'iga e puipui ai i latou o loo sauaina i aiga e ala i le faavave ona faagasolo o iloiloga i luga o ni pepa i le gagana Peretania ma le gagana Samoa e mafai ona aumaia e le Faamasinoga. O Faalavelave faafuasei, o poloa'iga e puipui ai se itu e tasi e faapipii faatasi ma se faaaliga o se iloiloga a le Faamasinoga e faia i totonu o le 72 itula talu ona faia o lea poloa'iga.

(i) E mafai ona faataga e le Faamasinosili le faaaogaina, taliaina, le faagaioioia ma le vaia o se tupe a le malo tele poo se isi lava tupe o avanoa mo

le faagaioia, o fale, meafaigaluega, afaigaluega ma auunaga lagolago atu mo le Vaega o Faamasinoga mo Aiga, Vaila'au ma le Alakaholo.

3.0504 Ofisa o le lala Faamalosi Tulafono – Galulue faatasi.

O ofisa uma lava o le malo e galulue faatasi ma le Faamasinoga Maualuga i le faatinoina o le porokalama faataitai leni mo le Faamasinoga mo Aiga, Vaila'au ma le Alakaholo. O le Matagaluega o le Saogalemu Lautele latou te faavaeina ni faiga ma faagasologa e talafeagai ai mo le lesitalaina ma le faamalosi o poloa'iga e puipui ai sauaga i aiga e faauluina pe aumaia foi e le Faamasinoga ma, i le galulue faatasi ai ma le Loia Sili, ia latou faatinoina se faiga tausisia mo le pu'efaapagotaina ma le auina atu i le faamasinoga o mataupu i sauaga i aiga ma le faapisapisaō e aafia ai le 'ava ma vaila'au faasaina.

3.0505 Aiaiga mo toe taimi o le tulafono.

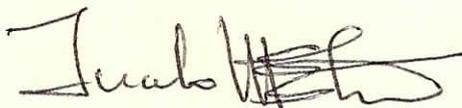
O leni tulafono e uma lona aoga ma e le toe i ai sona malosi e amata ia Oketopa 1, 2010 sei vagana ai ua suia, toe teuteu pe faatulafonoina foi e le Fonofaitulafono ma sainia e le Kovana.

Maga 2 Soloia.

“Maga 3.0505 TTAS ua soloia nei.”

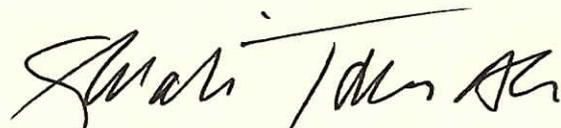
Maga 3 Aso e taualoa ai.

Ina ia talafeagai le taimi e toe faatagaina ai le faatuina o le porokalama faata'ita'i mo le Faamasinoga mo Aiga, Vaila'au ma Alakaholo ma, a faamaonia mai e le Failautusi o le Initeria lea faaiuga a le Fonofaitulafono ia avea lea faamasinoga ma vaega tumau o le Faamasinoga Maualuga a Amerika Samoa, ia taualoaina loa le Maga 1 ma le Maga 2 o leni tulafono i le taimi lava e sainia ai e le Kovana, a'o lei oo ina faalauaitelina, le faamaoniga a le Failautusi o le Initeria e faatuina le faamasinoga lea e avea ma vaega tumau o le Faamasinoga Maualuga a Amerika Samoa e tusa ai ma le Maga 4, Pule Faafaamasinoga, Aveesea o le tapulaa o i ai i le Pule a le Malo, Poloa'iga Numera 2657 a le Failautusi o le Initeria, e pei ona suia ai.



LOLO M. MOLIGA

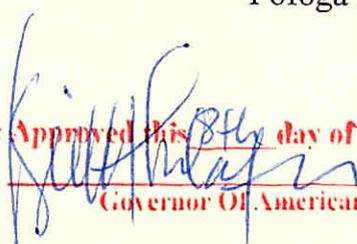
Peresetene, Maota Maualuga



SAVALI TALAVOU ALE

Fofoga Fetalai, Maota o Sui

Hereby Approved this 8th day of March 2007


Governor Of American Samoa