

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.

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(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