

**I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN**  
**2022 (SECOND) Regular Session**  
**VOTING RECORD**

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator V. Anthony Ada	✓					
Senator Frank Blas Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator James C. Moylan	✓					
Vice Speaker Tina Rose Muña Barnes	✓					
Senator Telena Cruz Nelson	✓					
Senator Sabina Flores Perez	✓					
Senator Clynton E. Ridgell	✓					
Senator Joe S. San Agustin	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Senator Jose "Pedo" Terlaje	✓					
Speaker Therese M. Terlaje	✓					
Senator Mary Camacho Torres	✓					

Speaker Antonio R. Unpingco Legislative Session Hall  
 Guam Congress Building  
 December 16, 2022

**TOTAL**

**15**

**0**

Aye

Nay


Not  
Voting/  
Abstained

Out  
During  
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:

  
 \_\_\_\_\_  
 RENNAE V. C. MENO  
 Clerk of the Legislature

I = Pass

***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2022 (SECOND) Regular Session**

**Bill No. 299-36 (LS)**

As amended by the Committee on Health, Land,  
Justice, and Culture; and further amended on the Floor.

\*

Introduced by:

Mary Camacho Torres  
Telena Cruz Nelson  
Therese M. Terlaje  
Tina Rose Muña Barnes  
Sabina Flores Perez  
Amanda L. Shelton  
Jose "Pedo" Terlaje  
James C. Moylan  
Christopher M. Dueñas  
V. Anthony Ada  
Joe S. San Agustin  
Frank Blas Jr.  
Joanne Brown  
Telo T. Taitague  
Clynton E. Ridgell

**AN ACT TO *ADD* NEW §§ 13301.1 AND 13301.2, AND *AMEND* §§ 13320(a)-(f) AND 13324, ALL OF ARTICLE 3, CHAPTER 13, TITLE 19, GUAM CODE ANNOTATED; AND TO *ADD* NEW §§ 4303(b)(6) AND (7), AND 4303(d) OF ARTICLE 3, CHAPTER 4, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO REQUIRING REASONABLE EFFORTS TO PRESERVE AND REUNIFY FAMILIES AND ESTABLISHING CIRCUMSTANCES NEGATING REQUIREMENT FOR SUCH REASONABLE EFFORTS; UPDATING DISPOSITION HEARING REQUIREMENTS; UPDATING THE TIMELINES FOR THE PERMANENT PLACEMENT OF CHILDREN; AND TERMINATING THE PARENTAL RIGHTS OF A PARENT WHO SUBJECTS A CHILD TO AGGRAVATED CIRCUMSTANCES.**

1           **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 declares that the family unit is a fundamental resource of the island which should be  
4 nurtured. Toward the continuance of this principle, *I Liheslatura* declares that the  
5 family unit should remain intact unless a child’s right to conditions of basic nurture,  
6 health, or safety is jeopardized. When the rights of basic nurture, physical and  
7 psychological health, and safety of the child and the legal rights of the parents are in  
8 conflict, *I Liheslatura* declares that the rights and safety of the child should prevail.  
9 Further, in making reasonable efforts to preserve or reunify the family, the child’s  
10 health and safety should be the paramount concern.

11           *I Liheslaturan Guåhan* finds that in all fifty (50) states, the District of  
12 Columbia, Puerto Rico, and the Virgin Islands, reasonable efforts to preserve or  
13 reunify the family are *not* required when the state’s welfare agency or the court has  
14 determined the existence of *specific* circumstances. These circumstances include that  
15 the parent subjected the child to abandonment, torture, chronic abuse, and sexual  
16 abuse; that the parent committed murder of another child of the parent; that the  
17 parent committed voluntary manslaughter of another child of the parent; that the  
18 parent aided or abetted, attempted, conspired, or solicited to commit such a murder  
19 or voluntary manslaughter; that the parent committed a felony assault that resulted  
20 in serious bodily injury to the child or another child of the parent; or that the parental  
21 rights of the parent to a sibling of the child were terminated involuntarily.

22           *I Liheslaturan Guåhan* duly notes that Guam’s Child Protective Act does not  
23 specify when reasonable efforts to reunite the family are no longer required nor does  
24 the law clearly state when a petition for the termination of parental rights must be  
25 filed by Child Protective Services. The federal *Adoption and Safe Families Act* (U.S.  
26 Public Law 105-89) currently requires state welfare agencies to file a petition to  
27 terminate parental rights, with certain exceptions, when a child has been in foster

1 care for fifteen (15) of the most recent twenty-two (22) months in order to be eligible  
2 for Title IV-E funding. Title IV-E provides reimbursement to states and territories  
3 for provision of foster care, adoption assistance, and kinship guardianship assistance  
4 to eligible children. Guam’s Child Protective Act does not have these requirements.  
5 As a result, Guam is currently ineligible for this federal funding despite being  
6 considered a state under Title IV-E of the Social Security Act. Guam law also  
7 permits a child to remain in foster care beyond two (2) years at the court’s discretion.  
8 While this judicial discretion allows the court to determine the arrangement that best  
9 suits the child’s needs based on a number of factors, *I Liheslaturan Guåhan* finds  
10 there is legitimate government interest in strengthening protections for children in  
11 cases of severe abuse, sexual assault, or violence.

12 In 2020, *I Liheslatura* required the court to presume that termination of  
13 parental rights is in the best interest of a child conceived as a result of criminal sexual  
14 conduct (Guam Public Law 35-91). The law was predicated on Guam’s high number  
15 of sexual assaults per capita, the disproportionately low number of sexual assaults  
16 resulting in convictions, and the presence of rape-related pregnancies on island, most  
17 notably the reporting of a thirty-eight (38) year old man charged in the Superior  
18 Court of Guam for raping and impregnating an eleven (11) year old girl (*People of*  
19 *Guam v. Rinext Riosen*). These factors, coupled with peer-reviewed research  
20 indicating the re-traumatizing experience of raising one’s child alongside her  
21 attacker, compelled *I Liheslatura* to explicitly recognize an act of criminal sexual  
22 conduct resulting in the conception of a child as grounds for the termination of  
23 parental rights.

24 *I Liheslaturan Guåhan* finds that family violence and child abuse are similarly  
25 enduring issues within the community, remaining high on the list of crimes charged  
26 in Guam’s family court every year (2020 Judiciary of Guam Annual Report). The  
27 demand for more foster homes has also grown with the five hundred (500) children

1 currently in Guam’s foster care system. While Child Protective Services works  
2 tirelessly to place Guam’s children who are in need in safe homes, *I Liheslatura*  
3 recognizes the traumatizing impact and potential consequences of placement  
4 instability and disruption in long-term foster care. According to the American  
5 Academy of Pediatrics, children with multiple placements experience a sixty-three  
6 percent (63%) greater risk of developing behavioral challenges than children in  
7 stable placements.

8 Thus, while family life should be strengthened and preserved, *I Liheslatura*  
9 maintains that the right of a child to basic nurturing includes the right to a safe,  
10 stable, and permanent home. It is, therefore, the intent of *I Liheslaturan Guåhan* to  
11 explicitly define when reasonable efforts to preserve the family are no longer  
12 required, to explicitly define the circumstances under which a petition to terminate  
13 the parental rights must be filed, and to revise the deadlines for court hearings on  
14 children’s permanent placement; and, in doing so, *I Liheslatura* intends to uphold  
15 the child’s health and safety as the paramount concern.

16 **Section 2.** New §§ 13301.1 and 13301.2 are hereby *added* to Article 3,  
17 Chapter 13, Title 19, Guam Code Annotated, to read:

18 **“§ 13301.1. Reasonable Efforts to Preserve and Reunify Families.**

19 Except as provided in §13301.2 of this Chapter, Child Protective  
20 Services shall make reasonable efforts to preserve and reunify families prior  
21 to the placement of a child in foster care, to prevent or eliminate the need for  
22 removing the child from the home of the child, and to make it possible for a  
23 child to return safely to the home of the child. In determining the reasonable  
24 efforts to be made with respect to a child, and in making these reasonable  
25 efforts, the health and safety of the child shall be the paramount concern.  
26 Reasonable efforts to finalize an alternate permanency plan may be made  
27 concurrently with reasonable efforts to reunify the child and family.

1 Concurrent planning shall mean the simultaneous preparation of plans  
2 to (1) assist members of the child's family in completing a Service Plan  
3 pursuant to 19 GCA § 13304 that, when completed successfully will allow the  
4 child to return home safely; and (2) to place the child in a setting that will  
5 become the child's permanent home if such members of the child's family are  
6 unable to successfully complete the Service Plan.

7 **§ 13301.2. Circumstances Negating Requirement for Reasonable**  
8 **Efforts.**

9 (a) Reasonable efforts to reunify a parent or guardian with the child  
10 shall not be required or shall cease if one (1) or more of the following  
11 circumstances exist:

12 (1) the parent or guardian, upon a finding of clear and  
13 convincing evidence, has subjected the child to aggravated  
14 circumstances, such as abandonment, torture, sexual abuse, chronic or  
15 severe abuse, or chronic or severe neglect. For the purposes of this  
16 Chapter, aggravated circumstances shall include the failure to protect  
17 such a child from such conduct, when failure to protect evinces a  
18 wanton or depraved indifference to human life or has resulted in the  
19 death of such a child or in serious bodily injury to such a child;

20 (2) the parent or guardian has been convicted of murder or  
21 voluntary manslaughter of another child of the parent; aiding, abetting,  
22 attempting, conspiring, or soliciting to commit such crimes; or a felony  
23 assault that resulted in serious bodily injury to the child or to another  
24 child of the parent;

25 (3) the parental rights of the parent with respect to a sibling of  
26 the child have been involuntarily terminated, unless the court  
27 determines that providing reasonable efforts would be in the best

1 interests of the child, would not be contrary to the health and safety of  
2 the child, and would likely result in the reunification of the parent and  
3 the child in the foreseeable future; or

4 (4) the child has subsequently been found to be abused or  
5 neglected within one (1) year after returning home following placement  
6 in foster care.

7 (b) Once a child is in the custody of Child Protective Services, Child  
8 Protective Services may petition the court for a judicial determination that  
9 efforts to reunify the parent and child are not required under the circumstances  
10 specified in Subsection (a) of this Section.

11 (c) If the court finds by clear and convincing evidence that any of  
12 the circumstances specified in Subsection (a) of this Section exists, the court  
13 shall waive the requirement that reasonable efforts be made to reunify the  
14 child with the child's parent or guardian.

15 (1) A court determination addressing reasonable efforts to  
16 prevent removal must be made within sixty (60) days of removal of the  
17 child from his or her home.

18 (2) If the court finds that reasonable efforts are not required,  
19 it shall document that determination by written findings of fact.

20 (d) A Permanency Plan Hearing, as provided in § 13324 of this  
21 Article, shall be held for the child within thirty (30) days after the  
22 determination.”

23 **Section 3.** §§ 13320(a)-(f) of Article 3, Chapter 13, Title 19, Guam Code  
24 Annotated, are hereby *amended* to read:

25 “§ 13320. **Disposition Hearing.**

26 (a) The court may consider any information relevant to disposition  
27 which is in the best interests of the child; provided, that the court shall

1 determine initially whether the child's family home is a safe family home. The  
2 court shall consider fully all relevant prior and current information, including  
3 any of the circumstances under § 13301.2 of this Article, for determining  
4 whether the child's family is willing and able to provide the child with a safe  
5 family home, and the report or reports submitted pursuant to § 13309 of this  
6 Article, in rendering such a determination. Notwithstanding any other  
7 provision under this Section, if the court finds by clear and convincing  
8 evidence that any of the circumstances specified in § 13301.2(a) of this Article  
9 exists, the court shall render a determination pursuant to § 13301.2(c) of this  
10 Article, and hold a Permanency Plan Hearing as provided in § 13324 of this  
11 Article within thirty (30) days after the determination.

12 (b) If the court determines that the child's family is presently willing  
13 and able to provide the child with a safe family home without the supervision  
14 of Child Protective Services, the court shall terminate jurisdiction.

15 (c) If the court determines that the child's family home is a safe  
16 family home with the supervision of Child Protective Services, the court shall  
17 place the child and the child's family members who are parties under the  
18 supervision of an authorized agency, return the child to the child's family  
19 home and enter further orders, including, but not limited to, restrictions upon  
20 the rights and duties of the authorized agency, as the court deems to be in the  
21 best interests of the child.

22 (d) If the court determines that the child's family home is not a safe  
23 family home, even with the supervision of Child Protective Services the court  
24 shall vest foster custody of the child in an authorized agency and enter such  
25 further orders as the court deems to be in the best interests of the child.

26 (e) If the child's family home is determined not to be safe, even with  
27 the supervision of Child Protective Services pursuant to Subsection (d) of this



1 Section, the court may, and if the child has been residing outside the family  
2 home for a period of one (1) year, the court shall, set the case for a Permanency  
3 Plan Hearing and order that the authorized agency submit a report pursuant to  
4 § 13309 of this Article.

5 (f) At the disposition hearing, the court may order such terms,  
6 conditions and consequences as the court deems to be in the best interests of  
7 the child consistent with the requirements under § 13301.2 of this Article, if  
8 applicable.”

9 **Section 4.** § 13324 of Article 3, Chapter 13, Title 19, Guam Code  
10 Annotated, is hereby *amended* to read:

11 **“§ 13324. Permanency Plan Hearing.**

12 (a) The court shall hold a Permanency Plan Hearing to determine the  
13 future permanent legal status of the child:

14 (1) within thirty (30) days after the court finds that reasonable  
15 efforts are not required pursuant to § 13301.2 of this Article; or

16 (2) in all other cases, within twelve (12) months after the child  
17 is removed from the child’s home.

18 (b) At the Permanency Plan Hearing, the court shall consider fully  
19 all relevant prior and current information for determining whether the child’s  
20 family is willing and able to provide the child with a safe family home,  
21 including, but not limited to, the report or reports submitted pursuant to §  
22 13309 of this Article, or any of the circumstances under § 13301.2 of this  
23 Article, and determine whether there exists clear and convincing evidence  
24 that:

25 (1) the child’s family is not presently willing and able to  
26 provide the child with a safe family home, even with the supervision of  
27 Child Protective Services;

1           (2) it is not reasonably foreseeable that the child's family will  
2 become willing and able to provide the child with a safe family home,  
3 even with the supervision of Child Protective Services, within a  
4 reasonable period of time, which shall not exceed fifteen (15) of the  
5 most recent twenty-two (22) months from the date upon which the child  
6 was first placed under foster custody by the court;

7           (3) the proposed permanency plan is in the best interests of the  
8 child; provided, that the court shall presume that:

9                   (A) it is in the best interests of a child to be promptly  
10 and permanently placed with responsible and competent  
11 substitute caretakers and family in a safe and secure home; and

12                   (B) such presumption increases in importance  
13 proportionate to the youth of the child upon foster custody by the  
14 court; and

15           (4) if the child has reached the age of fourteen (14), the child  
16 is supportive of the permanency plan.

17           (c) If the court determines that the criteria set forth in Subsection (b)  
18 of this Section are established by clear and convincing evidence, the court  
19 shall order:

20                   (1) that the existing order of disposition be terminated and that  
21 the prior award of foster custody be revoked;

22                   (2) that permanent custody be awarded to an appropriate  
23 authorized agency;

24                   (3) that an appropriate permanency plan be implemented  
25 concerning the child whereby the child will:

26                           (A) be adopted pursuant to §§ 4201 et seq. of Title 19  
27 GCA; provided, that the court shall presume that it is in the best

1 interests of the child to be adopted, unless the child is in the  
2 permanent custody of family or persons who have become as  
3 family and who for good cause are unwilling or unable to adopt  
4 the child but are committed to and are capable of being the  
5 child's permanent custodians; or

6 (B) remain in permanent custody until the child is  
7 subsequently adopted or reaches the age of eighteen (18), and  
8 that such status shall not be subject to modification or revocation  
9 except upon a showing of extraordinary circumstances to the  
10 court.

11 (d) If the court determines that the criteria set forth in Subsection (b)  
12 of this Section are not established by clear and convincing evidence, the court  
13 shall order that:

14 (1) the permanency plan hearing be continued for a reasonable  
15 period of time not to exceed six (6) months from the date of the  
16 continuance;

17 (2) the authorized agency submits a written report pursuant to  
18 § 13309 of this Article; and

19 (3) such further orders as the court deems to be in the best  
20 interests of the child be entered.

21 (e) At the continued Permanency Plan Hearing, the court shall  
22 proceed pursuant to Subsections (b), (c) and (d) of this Section, until such date  
23 as the court determines that:

24 (1) there is sufficient evidence to proceed pursuant to  
25 Subsection (c) of this Section; or

1                   (2) the child’s family is willing and able to provide the child  
2 with a safe family home, even with the supervision of Child Protective  
3 Services, upon which determination the court may:

4                   (A) revoke the prior award of foster custody to the  
5 authorized agency and return the child to the family home; and

6                   (B) terminate jurisdiction; or

7                   (C) award supervision to an authorized agency;

8                   (D) order such revisions to the order of disposition as  
9 the court, upon such hearing as the court deems to be appropriate,  
10 determines to be in the best interests of the child;

11                   (E) set the case for a progress hearing; and

12                   (F) enter such further orders as the court deems to be in  
13 the best interests of the child.”

14           **Section 5.** New Subsections (6) and (7) are hereby *added* to § 4303(b) of  
15 Article 3, Chapter 4, Title 19, Guam Code Annotated, to read:

16                   “(6) that the parent has been convicted of one (1) or more of the  
17 following offenses:

18                   (A) murder, pursuant to 9 GCA Chapter 16, of another child  
19 of the parent, a sibling or step-sibling of the child, the child’s other  
20 parent, or other persons related by consanguinity or affinity, including  
21 a minor child who resided with the defendant;

22                   (B) manslaughter, pursuant to 9 GCA Chapter 16, of another  
23 child of the parent, a sibling or step-sibling of the child, the child’s other  
24 parent, or other persons related by consanguinity or affinity, including  
25 a minor child who resided with the defendant;

26                   (C) an attempt, solicitation, or conspiracy to commit any of the  
27 offenses specified in Subsections (A) and (B);

1 (D) a felony assault, pursuant to 9 GCA Chapter 19, which  
2 resulted in injury to the child, a sibling or step-sibling of the child, the  
3 child's other parent, or other persons related by consanguinity or  
4 affinity, including a minor child who resided with the defendant;

5 (E) a criminal charge relating to the physical or sexual abuse  
6 or neglect of any child and that physical or sexual abuse, neglect, or  
7 emotional injury to the child named in the present termination action is  
8 likely to occur if the parental rights are not terminated;

9 (7) that the child has been in foster care under the responsibility of  
10 Child Protective Services for fifteen (15) of the most recent twenty-two (22)  
11 months.”

12 **Section 6.** A new § 4303(d) is hereby *added* to Article 3 of Chapter 4, Title  
13 19, Guam Code Annotated, to read:

14 “(d) Under any of the conditions specified in Subsections (b)(1), (6),  
15 and (7) of this Section, Child Protective Services shall file a petition to  
16 terminate the parental rights of the child's parent (or, if such a petition has  
17 been filed by another party, seek to be joined as a party to the petition), and  
18 concurrently identify, recruit, process, and approve a qualified family for an  
19 adoption. Child Protective Services may elect not to terminate the parental  
20 rights of the child's parent if:

21 (1) the child is being cared for by a relative approved by Child  
22 Protective Services;

23 (2) Child Protective Services has documented a compelling  
24 reason, available for court review, for determining that filing a petition  
25 to terminate parental rights would not be in the best interests of the  
26 child. Compelling reasons for not filing a petition to terminate parental  
27 rights include, but are not limited to, the following:

1 (A) there are insufficient grounds for filing a petition;

2 (B) the parent of the child is actively engaged in  
3 services to address the reasons the child entered care (including  
4 treatment for substance abuse disorder, mental health concerns,  
5 or parenting skills);

6 (C) there is adequate documentation that termination of  
7 parental rights is not the appropriate plan and not in the best  
8 interests of the child; or

9 (3) the family of the child has not been provided, consistent  
10 with the time period in the Service Plan under § 13304 of Article 3,  
11 Chapter 13, Title 19 GCA, services or treatment that Child Protective  
12 Services deemed necessary for the safe return of the child to the child's  
13 home, when reasonable efforts to reunify the family are required.”

14 **Section 7. Effective Date.** This Act shall be effective ninety (90) days after  
15 its enactment.

16 **Section 8. Severability.** If any provision of this Act or its application to any  
17 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
18 not affect other provisions or applications of this Act that can be given effect without  
19 the invalid provision or application, and to this end the provisions of this Act are  
20 severable.