

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN

2024 (SECOND) Regular Session

VOTING RECORD

Bill No. 240-37 (COR) As amended by the Committee on Health, Land, Justice, and Culture.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building May 31, 2024
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NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator Chris Barnett	✓					
Senator Frank Blas, Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator Thomas J. Fisher		✓				
Senator Jesse A. Lujan	✓					
Vice Speaker Tina Rose Muña Barnes		I ✓				
Senator William A. Parkinson		✓				
Senator Sabina Flores Perez	✓					
Senator Roy A. B. Quinata		II ✓				
Senator Joe S. San Agustin		✓				
Senator Dwayne T. D. San Nicolas		✓				
Senator Amanda L. Shelton		✓				
Senator Telo T. Taitague	✓					
Speaker Therese M. Terlaje	✓					

TOTAL

8	7			0	0
Aye	Nay	Not	Out	Absent	Excused
		Voting/ Abstained	During Roll Call		

CERTIFIED TRUE AND CORRECT:

JOAQUIN P. TAITAGUE
Clerk of the Legislature

I = Pass

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2024 (SECOND) Regular Session

Bill No. 240-37 (COR)

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

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Introduced by:

Therese M. Terlaje

**AN ACT TO AMEND § 34111(b) AND ADD NEW §§ 34156,
34157, AND 34158 OF ARTICLE 1, CHAPTER 34, TITLE
5, GUAM CODE ANNOTATED, RELATIVE TO
EFFECTIVELY DISTRIBUTING AND DISPOSING OF
UNDISTRIBUTED CHILD SUPPORT FUNDS AT THE
OFFICE OF THE ATTORNEY GENERAL OF GUAM.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that this legislation was introduced at the request of the Office of the Attorney General of Guam (OAG). *I Liheslaturan Guåhan* further finds and declares that the Office of the Attorney General's Child Support Enforcement Division (CSED) was created because public policy is in favor of establishing paternity, of having parents support their children, and in having fair and equitable support orders. Once child support orders are established, the OAG's CSED collects funds from the non-custodial parent, and is required by local and federal regulations to distribute said funds to the custodial parent for the support of the minor children, or back to the government of Guam for reimbursement in cases where the custodial parent received government assistance under the Aid to Families with Dependent Children (AFDC), now known as the Temporary Assistance for Needy Families (TANF).

1 However, with the passage of time, some parents changed their residences but
2 failed to update the CSED with their new contact information, failed to maintain
3 their bank account for direct deposits, or have since passed away. There are also
4 funds held for a long time wherein the bank holding the funds has been unable to
5 provide a proper accounting to identify who is entitled to the funds. As a result, the
6 OAG’s CSED has accumulated a significant amount of undistributed funds. That
7 amount is currently estimated at approximately Six Million Three Thousand Seven
8 Hundred Thirty-five Dollars (\$6,003,735) as of December 31, 2023. In addition,
9 undistributed funds include cancelled, returned and stale dated checks prior to
10 August 30, 1996, which cannot be reconciled, totaling Eight Hundred Twenty-three
11 Thousand One Hundred Nineteen Dollars and Eighty-four Cents (\$823,119.84).

12 The problem of not being able to distribute these funds to the custodial or non-
13 custodial parents, and ultimately for their children’s benefit, has persisted and
14 increased for decades now, and grown to the extent that large sums of money now
15 simply remain in government accounts without any distribution to no one’s benefit.

16 It is the intent of this legislation, to create a process where undistributed funds
17 can be more effectively distributed, or otherwise escheat to the government of Guam
18 in cases where after diligent efforts have been made to try and locate the custodial
19 parent, the non-custodial parent, or their heirs have been unsuccessful. Federal grant
20 requirements require that these funds must be attributed to the OAG CSED’s child
21 support operations and cannot be used for any other purpose. *I Liheslaturan Guåhan*
22 incorporates the federal requirement and will escheat these funds and deemed it as
23 “income” to the government of Guam. As such, these federal funding amounts in the
24 undistributed accounts will be applied to offset the federal government’s
25 contribution to operating the CSED. It is the intent of this legislation to reprogram
26 escheated funds back to the OAG’s Child Support Division to cover the reduction of
27 federal funding.

1 For the Fiscal Year 2023, findings are as follows:

2 (1) The OAG’s CSED has undistributed funds totaling Eight Hundred
3 Twenty-three Thousand One Hundred Nineteen Dollars and Eighty-four Cents
4 (\$823,119.84) as of August 30, 1996, where it has already been established that this
5 amount cannot be reconciled.

6 (2) The OAG’s CSED has undistributed funds totaling Four Million Two
7 Hundred Sixty-Nine Thousand Seven Hundred Forty Two Dollars (\$4,269,742) as
8 of December 31, 2023, where current efforts are being made to locate the custodial
9 parent or non-custodial parent.

10 (3) The OAG’s CSED may have future undistributed funds that may need
11 to be escheated because the OAG’s CSED has lost contact with the custodial parent
12 and the non-custodial parent, and their cases have been closed for a period of no less
13 than two (2) years.

14 **Section 2.** § 34111(b) of Article 1, Chapter 34, Title 5, Guam Code
15 Annotated, is hereby *amended* to read:

16 “(b) With respect to any funds paid to the Department of Public
17 Health and Social Services, pursuant to any order of support, which have
18 remained unclaimed for more than five (5) years, and after the OAG’s CSED
19 pursued diligent effort to locate the person entitled to such funds, the funds
20 shall be distributed as follows:

21 (1) If the custodial parent is located and the funds are owed to
22 the custodial parent, OAG CSED shall distribute such funds to the
23 custodial parent.

24 (2) If the custodial parent cannot be located or is deceased and
25 the funds are owed to the custodial parents, OAG CSED shall first
26 refund such funds to the non-custodial parent.

1 (3) If such funds are overpayments, such funds shall not be
2 paid to the custodial parent but shall be refunded to the non-custodial
3 parent.

4 (4) If the non-custodial parent cannot be located or is also
5 deceased, the minor child or children or any surviving heir of the
6 custodial parent can make a claim for such funds, however, OAG CSED
7 shall not distribute such funds to the minor child or children or any
8 surviving heir unless pursuant to an order of court.

9 (5) If, after diligent efforts by OAG CSED, it has been
10 determined that the custodial parent and non-custodial parent cannot be
11 located or are both deceased, and the minor child or children or any
12 surviving heir have not made a claim for such funds, OAG CSED shall
13 escheat such funds to the government of Guam pursuant to § 34156.”

14 **Section 3.** A new § 34156 is hereby *added* to Article 1, Chapter 34, Title 5,
15 Guam Code Annotated, to read as follows:

16 “**§ 34156. Escheatment of Undistributed Funds if Custodial Parents or**
17 **Non-Custodial Parents Cannot be Located.**

18 (a) The Attorney General shall commence an escheatment
19 proceeding on behalf of the government of Guam in a court having jurisdiction
20 to have it adjudged that the government of Guam is so entitled to the
21 escheatment of undistributed funds. Such action shall be commenced by filing
22 a petition with a description and the facts and circumstances by virtue of
23 which it is claimed the property should be escheated.

24 (b) Upon the filing of such petition, the court must make an order
25 requiring the custodial and non-custodial parent associated with said funds
26 and all persons interested in the undistributed funds to appear and show cause,
27 if any, within sixty (60) days from the date of this order, why such

1 undistributed funds shall not vest in the government of Guam. Such order shall
2 be published in a daily newspaper of wide circulation once each week and on
3 the AG’s website and the government of Guam Central Website for three (3)
4 consecutive weeks during this sixty (60)-day period. In addition, such order
5 must be posted for four (4) consecutive weeks on the public bulletin boards in
6 *Hagåtña*. Upon the completion of the publication of such order, the court shall
7 have full and complete jurisdiction over the undistributed funds and any
8 persons claiming an interest in said undistributed funds, and shall have full
9 and complete jurisdiction to hear and determine the issues therein and render
10 the appropriate judgment thereon.

11 (c) If proceedings for the administration of the estate of a deceased
12 custodial parent or non-custodial parent have been filed in the Superior Court
13 of Guam or other court of competent jurisdiction, a copy of the order to show
14 cause must be filed with the papers to such estate. If proceedings for the
15 administration of a deceased custodial parent or non-custodial parent have
16 been filed in the Superior Court of Guam or other court of competent
17 jurisdiction and the administrator or personal representative fails to appear or
18 otherwise make a claim to such undistributed funds, or any portion thereof, or
19 if the court shall find that the estate is not entitled to the undistributed funds,
20 the court in the escheat proceeding shall distribute all moneys remaining to
21 the government of Guam. Any person who does not appear and make a claim
22 as herein required shall be forever barred.”

23 **Section 4.** A new § 34157 is hereby *added* to Article 1, Chapter 34, Title 5,
24 Guam Code Annotated, to read as follows:

25 “§ 34157. **Case Closure and Escheatment of Undistributed Funds:**
26 **Notice of Custodial Parents and Non-Custodial Parents with Active Cases.**
27 When the Attorney General’s Child Support Enforcement Division (CSED) has

1 undistributed funds that may need to be escheated and has lost contact with the
2 custodial parent and the non-custodial parent:

3 (a) The Attorney General shall continue, for at least six (6) months,
4 to locate the custodial parent or payee whenever money is collected pursuant
5 to an order of support and has yet to be distributed. Such efforts to locate shall
6 be documented by the Attorney General.

7 (b) Whenever such funds have remained unclaimed for at least five
8 (5) years, the Attorney General shall begin the process of closing the child
9 support case by sending a closure letter via certified mail to the custodial
10 parent or payee at his or her last known address. The closure letter shall advise
11 the custodial parent that if he or she does not contact the Attorney General
12 within sixty (60) days, his or her case will be closed and the funds collected
13 under an order for support shall be refunded to the non-custodial parent. If the
14 non-custodial parent cannot be located or no claims have been made by a child
15 or children or surviving heir, the Attorney General shall commence an action
16 for escheatment pursuant to § 34156 of this Article.”

17 **Section 5.** A new § 34158 is hereby *added* to Article 1, Chapter 34, Title 5,
18 Guam Code Annotated, to read as follows:

19 “**§ 34158. Allocation of Escheated Funds.**

20 Funds escheated pursuant to this Chapter are hereby appropriated to the
21 OAG’s Child Support Enforcement Division to cover the reduction of federal
22 funding.”

23 **Section 6. Effective Date.** This Act shall be effective upon enactment.

24 **Section 7. Severability.** If any provision of this Act or its application to any
25 person or circumstance is found to be invalid or inorganic, such invalidity shall not
26 affect other provisions or applications of this Act that can be given effect without
27 the invalid provision or application, and to this end the provisions of this Act are

1 severable.